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48/chap.2/pt.252-299/990

Federal Acquisition Regulations System

48

CHAPTER 2 (Parts 252 TO 299)

Revised as of October 1, 1990

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Federal Acquisition Regulations System

48

CHAPTER 2 (Parts 252 to 299)

Revised as of October 1, 1990

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OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF October 1, 1990

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Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 48 CFR 252.101 *refers to title 48, part* 252, *section* 101.

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.. as of January 1
Title 17 through Title 27.. as of April 1
Title 28 through Title 41.. as of July 1
Title 42 through Title 50.. as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, October 1, 1990), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request. Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

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A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table III). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of "Title 3—The President" is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES AND SALES

For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, DC 20402 (telephone 202-783-3238).

MARTHA L. GIRARD,
Director,
Office of the Federal Register.

October 1, 1990.

THIS TITLE

Title 48—**Federal Acquisition Regulations System** is composed of seven volumes. The chapters in these volumes contain all current regulations and are arranged as follows: Chapter 1 (Parts 1 to 51), Chapter 1 (Parts 52 to 99), Chapter 2 (Parts 201 to 251), Chapter 2 (Parts 252 to 299), Chapters 3 to 6, Chapters 7 to 14 and Chapter 15 to End. The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 1990.

The Federal acquisition regulations in Chapter 1 are those government-wide acquisition regulations jointly issued by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration. Chapters 2 through end are acquisition regulations issued by individual government agencies. Parts 1 to 69 in each of Chapters 2 through end are reserved for agency regulations *implementing* the Federal acquisition regulations in Chapter 1 and are numerically keyed to them. Parts 70 to 99 in Chapters 2 through end contain agency regulations *supplementing* the Federal acquisition regulations.

The OMB control numbers for the Federal Acquisition Regulations System appear in § 1.105 of Chapter 1. For the convenience of the user § 1.105 is reprinted in the Finding Aids section of the second volume containing Chapter 1 (Parts 52 to 99).

The two volumes containing Chapter 1 include a subject index to the Federal acquisition regulations. The second volume, containing Chapter 1 (Parts 52 to 99), includes contract clauses and forms. The volume containing Chapter 2 also contains a subject index to the Department of Defense regulations. The volume containing Chapters 7 to 14 includes a Distribution Table for Chapter 9.

For this volume Jim Wickliffe was Chief Editor. The Code of Federal Regulations publication program is under the direction of Richard L. Claypoole, assisted by Alomha S. Morris.

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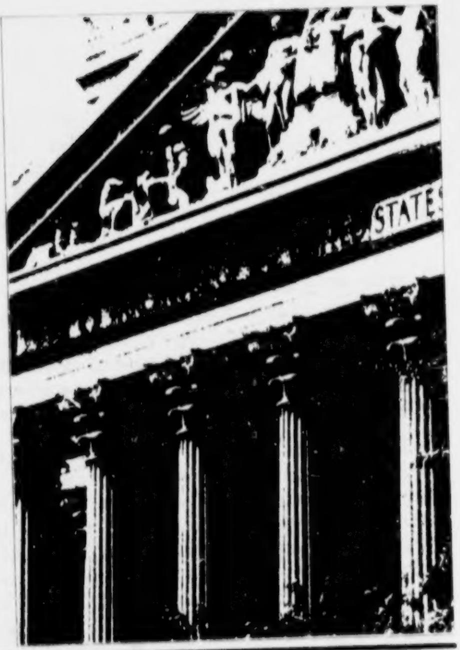

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Small Purchase Manual (ASPM No. 2) (31 MAR 76).

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ASPR Supplement No. 3—Property Administration (ASPS No. 3) (1 OCT 75).

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252.242-7002 [Reserved]
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252.247-7202 Representation of extent of transportation by sea.

252.247-7203 Transportation of supplies by sea.
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252.270-7000 Automatic data processing clauses—general.
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252.270-7008 Rights in privacy safeguards.
252.270-7009 Access to contractor facilities and records—privacy safeguards inspection.
252.270-7100 Federal information processing standards publications (FIPS PUB) clause.
252.270-7101 American Standard Code for Information Interchange (ASCII) system requirements.
252.270-7102 Punched paper tape readers and punches.
252.270-7103 Recorded magnetic tape for information interchange (800 CPI, NRZI).
252.270-7104 Rectangular holes in 12-row punched cards.
252.270-7105 Hollerith punched card code.
252.270-7106 Subsets of the standard code for information interchange.
252.270-7107 Flowcharts, symbols, and their usage in information processing.
252.270-7108 Recorded magnetic tape for information interchange (1600 CPI, Phase Code 0).
252.270-7109 One-inch perforated paper tape for information interchange.
252.270-7110 Take-up reels for the one-inch perforated tape for information interchange.
252.270-7111 Software summary for describing computer programs and/or automated data systems.
252.270-7112 Optical character recognition equipment.
252270-7113 Character set for handprinting.
252.270-7114 Code extension technique in 7 or 8 bits.
252.270-7115 Graphic representation of the control characters of ASCII (FIPS PUB 1-1).
252.270-7116 Data encryption standards (DES).
252.270-7117 Recorded magnetic tape for information interchange, 6250 characters per inch (CPI)(246 CPMM), group coded recording.
252.270-7118 Magnetic tape cassettes for information interchange (3.810mm (0.150 inch) tape at 32 BPMM (800 BPI), PE).
252.270-7119 Recorded magnetic tape cartridge for information interchange, 4-track, 6.30MM (0.25 inch), 63 BPMM (1600 BPI) phase encoded.
252.270-7120 Description of computer magnetic tape file properties.
252.270-7121 Computer output microform (COM) formats and reduction ratios, 16MM and 105MM.
252.270-7122 Input/output (I/O) channel interface.
252.270-7123 Channel level power control interface.
252.270-7124 Operational specification for magnetic tape subsystems.
252.270.7125 Interface: ADP SYstems/Variable Block, Rotating Mass Storage Subsystems.
252.270-7126 Magnetic tape labels and file structure information interchange.
252.270-7127 Data Encryption Standard (DES) modes of operation.
252.270-7128 Microform readers.
252.270-7129 Optical Character Recognition (OCR) inks.
252.270-7130 Optical Character Recognition (OCR) printers, readers and printed forms.
252.270-7131 Digital magnetic tape cassette equipment and associated programs.
252.270-7132 Acquisition and validation of COBOL compilers.
252.270-7133 Acquisition of COBOL programs and/or programming services.
252.270-7134 Delayed validation of compilers.
252.270-7135 Interchange of machine processable data between and among agencies.
252.270-7136 Additional American Standard Code for Information Interchange (ASCII) controls for character-imaging ADP equipment or services.
252.270-7137 Interface: ADP Systems/Fixed Block, Rotating Mass Storage Subsystems.
252.270-7200 Joint Federal Information Processing/Federal Telecommunications Standards (FIPS-FED/STD) Clauses.
252.270-7201 Synchronous high speed data signaling rates between data terminal equipment and data communication equipment.
252.270-7202 Bit sequencing of the code of information interchange in serial-by-bit data transmission.

252.270-7203 Character structure and character parity sense for serial-by-bit data communication in the code for information interchange.
252.270-7204 Character structure and character parity sense for parallel-by-bit data communication.
252.270-7205 Synchronous signaling rates between data terminal and data communication equipment.
252.270-7206 Data link control—synchronous bit-oriented data.
252.270-7207 Interface Between Data Terminal Equipment (DTE) and Data Circuit Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Network.
252.270-7300 Federal Telecommunications Standards (FED/STD) Clauses.
252.270-7301 Time and frequency reference information in telecommunications systems.
252.270-7302 Coding and modulation requirements for nondiversity 2400 bit/second modems.
252.270-7303 Coding and modulation requirements for 4800 bit/second modems.
252.270-7304 Coding and modulation requirements for duplex 9600 bit/second modems.
252.270-7305 Coding and modulation requirements for Duplex 600 and/or 1200 bit/second modems.
252.270-7306 Electrical characteristics of balanced voltage digital interface circuits.
252.270-7307 Electrical characteristics of unbalanced voltage digital interface circuits.
252.270-7308 Group 2 facsimile apparatus for document transmission.
252.270-7309 Cryptographic components, equipment, systems, and services.
252.270-7310 Acquisition, design, or development of Group 3 facsimile apparatus.
252.270-7311 Acquisition, design or development of Groups 1, 2, and 3 facsimile apparatus.
252.270-7400 Other automatic data processing standards clauses.
252.270-7401 BASIC language compilers.
252.270-7402 FORTRAN language compilers.
252.270-7403 Protection against compromising emanations.
252.271-7001 Recovery of nonrecurring costs on commercial sales of defense products and technology and of royalty fees for use of DoD technical data.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

SOURCE: 51 FR 46335, Dec. 23, 1986, unless otherwise noted.

Subpart 252.1—Instructions for Using Provisions and Clauses

252.101 Using Part 252.

(b) *Numbering.*

(2) *Provisions or clauses that supplement the FAR.*

(ii) Provisions and clauses in this supplement are not preceded by the assigned CFR chapter number. The sequential numbers are "7000" or higher, not to exceed "8999." Sequential numbers "9000" and higher are reserved for departmental supplementation (see 201.104-2).

(e) *Matrices.*

(2)(ii) In the event of an obvious conflict between the matrix location listing and FAR 14.201 or 15.406, the latter shall govern.

(f) *Dates.* Provisions and clauses in this supplement that were formerly in the DAR bear the DAR date when the provision or clause was transferred verbatim to this supplement.

252.106 Derivations of provisions and clauses.

Provisions and clauses in this supplement derived from the DAR do not include derivation notations.

Subpart 252.2—Texts of Provisions and Clauses

252.200 Scope of subpart.

(S-70) This subpart sets forth the texts of all DoD FAR Supplement provisions and clauses and for each, gives a cross-reference to the location in the DoD FAR Supplement that prescribes its use.

252.203-7000 Advertising and coupon redemption for military resale activities.

As prescribed at 203.570, insert the following clause:

ADVERTISING AND COUPON REDEMPTION FOR MILITARY RESALE ACTIVITIES (APR 1974)

The Contractor will not represent in any manner, expressed or implied, that the products purchased hereunder are approved or endorsed by any element of the United States Government. Any advertisement by the Contractor, including price-off coupons, which refers to a military resale activity, shall contain the following statement:

"This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

(End of clause)

252.203-7001 Special prohibition on employment.

As prescribed in 203.571-5, insert the following clause in all solicitations and contracts other than those entered into using the small purchase procedures of FAR part 13:

Special Prohibition on Employment (Mar 1989)

(a) *Definitions.* "Arising out of a contract with the Department of Defense", as used in this clause, means any act in connection with (1) attempting to obtain, (2) obtaining, or (3) performing a contract or subcontract of any agency, department, or component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this clause, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

"Date of conviction", as used in this clause, means the date judgment was entered against the individual.

(b) 10 U.S.C. 2408 prohibits a person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense from working in a management or supervisory capacity on any defense contract, or serving in various other capacities for a defense contractor, for up to five (5) years from the date of conviction, as set forth in paragraph (c) below. Defense contractors are subject to a criminal penalty of not more than $500,000 if they are convicted of knowingly employing a person under a prohibition or allowing that person to serve in violation of 10 U.S.C. 2408.

(c)(1) The Contractor agrees not to knowingly employ any person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or subcontract or allow that person to serve either on its board of directors, as a consultant, or as an agent or representative for a period of five (5) years from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer, unless waived.

(2) The Contractor agrees not to knowingly employ any person, convicted on or before September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or subcontract or allow that person to serve on its board of directors for a period of one (1) year from the date of conviction or for the period of any resultant debarment, whichever is longer.

(d) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as suspension or debarment, may direct the cancellation of the contract at no cost to the Government, or terminate this contract for default.

(e) The Contractor may submit written requests for waiver of the prohibitions in paragraph (c)(1) above to the Contracting Officer who will process such requests in accordance with DFARS 203.571-4. Requests shall clearly identify the person involved, the nature of the conviction and resultant sentence or punishment imposed, the reasons for the requested waiver, and an explanation of why waiver of the prohibitions of paragraph (c)(1) above is in the interests of national security.

(f) The Contractor agrees to include the substance of this clause, including this paragraph (f), appropriately modified to reflect the identity and relationship of the parties, in all subcontracts exceeding $25,000.

(End of clause)

[54 FR 16119, Apr. 21, 1989]

252.203-7002 Statutory compensation prohibitions and reporting requirements relating to certain former Department of Defense (DoD) employees.

As prescribed in 203.170-5, insert the following clause:

STATUTORY COMPENSATION PROHIBITIONS AND REPORTING REQUIREMENTS RELATING TO CERTAIN FORMER DEPARTMENT OF DEFENSE DOD EMPLOYEES (APR 1988)

(a) *Definitions.* Terms used in this clause are defined at section 203.170-1 of the Defense Federal Acquisition Regulation Supplement (48 CFR chapter 2).

(b) *Prohibition on compensation.*

(1) 10 U.S.C. 2397b and 2397c prohibit a major defense contractor from offering or providing any compensation valued in excess of two hundred fifty dollars ($250) to a former Department of Defense (DoD) official who left DoD service on or after April 16, 1987, and who, while employed by DoD, performed procurement related functions in connection with that same defense contractor. This prohibition runs for the two-year period beginning on the date of such person's separation from service in DoD.

(2) The Contractor, if a major defense contractor, agrees not to provide, for such two-year period, any compensation to such a former DoD official.

(3) DoD employees may request from their Defense Agency Ethics Official (DAEO) a written opinion on the applicability of 10 U.S.C. 2397b prior to the acceptance of compensation. If the opinion rendered by the DAEO states that the law is inapplicable, and that the individual may accept compensation from the contractor, there shall be a conclusive presumption that the offering and the acceptance of such compensation is not a violation of the statute.

(c) *Report concerning former DoD employees.* (1) The Contractor shall submit a separate written report, as described in paragraph (c)(2) below, for each calendar year covered by this contract (commencing with the calendar year of award and extending through the end of the calendar year in which final payment is made) if the calendar year commenced after the end of a Government fiscal year in which the Contractor was awarded one or more DoD contracts aggregating ten million dollars ($10,000,000) or more. In multidivisional corporations, in addition to corporate headquarters, each segment which contracts directly with the Government shall separately submit such reports. Each report shall be submitted to the Office of the Assistant General Counsel (Legal Counsel), Standards of Conduct Office, Attn: CAGC/LC, Pentagon, Washington, DC 20301-1600 listing those persons in its employ or whom it has otherwise compensated, who are former DoD employees who left service on or after April 16, 1987, if—

(i) They served in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for Grade GS-13 of the General Schedule or served in the Armed Forces in a pay grade of 04 higher;

(ii) They were compensated by the Contractor during the reporting period; and

(iii) Such compensation was provided within two (2) years after the former DoD employee left service in the Department of Defense.

(2) The report shall contain the following elements:

(i) Each individual's name and an identification of the agency in which each individual was employed or served on active duty during the last two (2) years of the individual's service with DoD;

(ii) Each individual's job title(s) during the person's last two (2) years of service with DoD and a list of major defense systems on which each individual performed any work;

(iii) A complete description (exclusive of proprietary information) of any work that each individual is performing, or did perform, on behalf of the Contractor during the calendar year covered by the report (If the procurement is classified, the Contractor may use a generalized description which will not compromise the classified nature of the work.);

(iv) An identification of each major defense system on which each individual has performed any work on behalf of the Contractor.

(3) Each report required under paragraph (c)(1) above shall be submitted not later than April 1 of the year following the end of the calendar year for which the report is being made.

(d) *Penalties for failure to comply*—(1) *Civil fines for failure to comply with 10 U.S.C. 2397b.* A contractor who knowingly offers or provides any compensation to a former DoD official in violation of the statute, and who knew or should have known that the acceptance of such compensation would be in violation of such statute, shall be subject to a civil fine, not to exceed five hundred thousand dollars ($500,000).

(2) *Liquidated damages for failure to comply with 10 U.S.C. 2397c.*

(i) For each knowing violation of the statutory prohibition on providing compensation, the Contractor agrees to pay to the United States Government as liquidated damages the greater of either one hundred thousand dollars ($100,000) or three (3) times the total amount of compensation paid by the Contractor to the former DoD official during the period in which such compensation was in violation of the statutory prohibition.

(ii) Liability for liquidated damages under this clause survives final payment under this contract and may be recouped against payments due under other contracts with the Contractor.

The rights and remedies under this clause are in addition to and do not limit any rights afforded to the Government under this contract or as otherwise provided by law.

(iii) Liquidated damages will be computed based upon the number of actual violations by the Contractor, and not on the number of contracts in which this clause appears.

(3) *Penalties for failure to report.* If the Contractor knowingly fails to file a report in accordance with (c) above the Contractor shall be subject to an administrative penalty not to exceed ten thousand dollars ($10,000). The final determination of the penalty to be charged to the Contractor shall be made by the Secretary of Defense or designee after the Contractor is afforded an opportunity for an agency hearing on the record in accordance with agency hearing procedures. The Secretary's determination shall form a part of the record and

shall be subject to judicial review under chapter 7 of title 5, United States Code.

(End of clause)

[52 FR 12386, Apr. 16, 1987; 52 FR 19870, May 28, 1987, as amended at 53 FR 38239, Sept. 29, 1988]

252.203-7003 Display of DoD hotline poster.

As prescribed in 203.7002, insert the following clause.

DISPLAY OF DOD HOTLINE POSTER (OCT 1987)

(a) Except as provided in paragraph (c) below, the Contractor shall display prominently in common work areas within business segments performing work under DoD contracts, DoD Hotline posters prepared by the Office of the Inspector General, DoD.

(b) DoD Hotline posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(c) The Contractor need not comply with paragraph (a), above, if the Contractor has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourages employees to make such reports (See DoD FAR Supplement 203.7000(c)).

(End of clause)

[52 FR 34387, Sept. 11, 1987]

252.204-7000 Contract schedule subline items not separately priced—withholding of billing and payment.

As prescribed at 204.7104-2(c)(2), insert the following clause:

CONTRACT SCHEDULE SUBLINE ITEMS NOT SEPARATELY PRICED—WITHHOLDING OF BILLING AND PAYMENT (NOV 1970)

If the unit price of any contract subline or exhibit subline item contained in the Schedule of this contract is not separately priced ("NSP" entered as the unit price column), and the unit price for such subline item is included within the unit price of a related subline item, payment shall not be made nor shall the Contractor invoice the Government for any portion of a contract line item or exhibit line item which contains an "NSP" subline until the total quantity of all related contract subline items or exhibit subline items have been delivered and accepted. This clause is not applicable to technical data.

(End of clause)

252.204-7004 [Reserved]

252.204-7005 Overseas distribution of defense subcontracts.

As prescribed at 204.674-3, insert the following clause:

OVERSEAS DISTRIBUTION OF DEFENSE SUBCONTRACTS (AUG 1988)

(a) For each subcontract or modification thereof which exceeds $25,000, where the country of origin is outside the United States or its territories and possessions, the Contractor agrees to prepare and submit the Subcontract Report of Foreign Purchases on DD Form 2139 to Director for International Acquisition, OASD (P&L) (P), Department of Defense, The Pentagon, Washington, DC 20301-3060. Copies of the form may be obtained from the Contracting Officer. Contractors who maintain information on foreign subcontracts on an automated data base may submit the information in a report format compatible with their automated system. In all cases, however, the report shall include all of the information required by the DD Form 2139. A sample of the form is shown at DoD FAR Supplement 253.303-70-DD-2139.

(b) For purposes of this clause, the term "country of origin" means the country where the actual producer of supplies or the actual provider of services is located.

(c) The required information, if any, shall be as of the last day of the calendar year quarter and submitted within ten (10) days of the end of each quarter.

(d) The prime Contractor agrees to insert a provision substantially similar to this in all first-tier subcontracts over $100,000 except subcontracts for ores, natural gas, utilities, petroleum products and crudes, timber (logs), and subsistence. The prime Contractor shall also identify the applicable prime contract number to the subcontractor for reporting purposes.

(End of clause)

[53 FR 34104, Sept. 2, 1988; 53 FR 50417, Dec. 15, 1988]

252.204-7006 [Reserved]

252.204-7007 Commercial and Government Entity (CAGE) code reporting.

As prescribed at 204.603-70, insert the following provision:

COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (OCT 1987)

In the block with its name and address, the Offeror should supply the CAGE code applicable to that name and address. The CAGE code should be preceded by "CAGE:". If the Offeror does not have a CAGE code, the Offeror may request the Contracting Officer to initiate a DD Form 2051. The Contraction Activity will complete Section A and the Offeror must complete Section B of the DD Form 2051. A CAGE code will be assigned when a completed DD Form 2051 is received by the Defense Logistics Services Center, Attn: DLSC-FBA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084. No Offeror should delay the submission of its offer pending receipt of its CAGE code.

(End of provision)

[52 FR 36421, Sept. 29, 1987, as amended at 53 FR 34104, Sept. 2, 1988; 53 FR 50417, Dec. 15, 1988; 55 FR 19080, May 8, 1990]

252.204-7008 Security of contractor telecommunications.

As prescribed in 204.503, insert the following clause:

TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES AND SERVICES (DEC. 1988)

(a) Definitions.

Securing, as used in this subpart, means the application of Government-approved telecommunications security equipment, devices, techniques, or services to contractor telecommunications systems.

Sensitive information, as used in this subpart, means any information the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which the individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

Telecommunications systems, as used in this subpart, means voice, record, and data communications, including management information systems and local data networks that connect to external transmission media, when employed by Defense agencies, contractors and subcontractors, to transmit

(a) Classified or sensitive information;

(b) Matters involving intelligence activities, cryptologic activities related to national security, the command and control of military forces, or equipment that is an integral part of a weapon or weapons system; or

(c) Matters critical to the direct fulfillment of military or intelligence missions.

(b) This solicitation/contract identifies classified or sensitive information that requires securing during telecommunications and the requirement for the Contractor to secure telecommunication systems. The Contractor agrees to secure information and systems identified in (insert the location in solicitation/contract).

(c) To provide the security, the Contractor shall use Government-approved telecommunications security equipment, devices, techniques or services, as identified in (insert location in solicitation/contract). Equipment, devices, techniques or services used by the Contractor must be compatible or interoperable with (insert location in solicitation/contract listing any telecommunications security equipment, devices, techniques, or service currently being used by the technical or requirements organization or other offices with which the Contractor must communicate).

(d) Except as provided in DFARS 204.502(d), Contractors shall furnish all telecommunications security equipment, devices, techniques or services necessary to perform this contract. Contractors must meet ownership eligibility conditions for COMSEC equipment designated as Controlled Cryptographic Items (CCI).

(e) This clause, including this paragraph (e), shall be included in all subcontracts which require securing telecommunications, suitably modified to reflect the relationship of the parties.

(End of clause)

[53 FR 51561, Dec. 22, 1988]

252.205-7000 Release of Information to Cooperative Agreement Holders

As prescribed in 205.470, insert the following clause.

RELEASE OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (FEB 1989)

(a) Definition. As used in this clause, the term "Cooperative Agreement Holder" means: a state or local government; a private, non-profit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450(c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))), whether such economic enterprise is organized for profit or nonprofit purposes, which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The contractor shall provide Cooperative Agreement Holders, upon request, with a list of those appropriate employees or offices responsible for entering into subcontracts under a Defense contract. The list shall include the business address, telephone number, and area of responsibility of each such employee. A contractor need not provide the listing to a particular Cooperative Agreement Holder more frequently than once a year.

(End of clause)

[52 FR 12387, Apr. 16, 1987, as amended at 53 FR 10250, Mar. 30, 1988; 53 FR 38196, 38239, Sept. 29, 1988; 54 FR 7429, Feb. 21, 1989; 54 FR 46902, Nov. 8, 1989]

252.208-7000 Required sources for miniature and instrument ball bearings.

As prescribed at 208.7303(a), insert the following clause:

REQUIRED SOURCES FOR MINIATURE AND INSTRUMENT BALL BEARINGS (JUL 1971)

(a) For the purpose of this clause:

Domestic manufacture means manufacture in the United States or Canada and, when a ball bearing assembly is involved, all components of the bearing must also have been manufactured in the United States or Canada; and

Miniature and instrument ball bearings are all rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material, tolerance, performance, or quality characteristics.

(b) The Contractor agrees that end items and components thereof delivered under this contract shall contain miniature and instrument ball bearings that are of domestic manufacture only.

(c) The requirement for delivery in (b) above may be waived in whole or in part by the Contracting Officer when such waiver is determined to be in the Government's interest. In the event a waiver is granted, the Contractor agrees to acquire for non-Government use, domestically manufactured miniature and instrument ball bearings of a like quantity and type.

(d) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in
every subcontract and purchase order issuec
in performance of this contract, unless he
knows that the item being purchased con
tains no miniature or instrument ball bear
ings.

(End of clause)

252.208-7001 Required sources for preci
sion components for mechanical time
devices.

As prescribed at 208.7403(a), inser
the following clause:

REQUIRED SOURCES FOR PRECISION
COMPONENTS FOR MECHANICAI
TIME DEVICES (AUG 1971)

(a) For the purpose of this clause:

Domestic manufacture means manufac
ture in the United States or Canada, anc
when a mechanical timing assembly is ir
volved, all precision components of the as
sembly must also have been manufacture
in the United States or Canada.

*Precision components for mechanical tim
devices* are parts which closely relate s
that precise control and selection of work
ing production tolerances can be maintaine
to accomplish the desired function and rel
ability. In terms of accuracy, such precisio
components have total tolerances unde
0.003 inches, eccentricities less than 0.001
inches, and surface finishes better than 6
rms. Examples of such precision compo
nents include: gears, pinions, posts, an
plates.

(b) The Contractor agrees that end iten
and components thereof delivered unde
this contract shall contain precision compo
nents for mechanical time devices that ar
of domestic manufacture only.

(c) The requirement for delivery in (
above may be waived in whole or in part b
the Contracting Officer when such waiver
determined to be in the Government's inte
est. In the event a waiver is granted, th
Contractor agrees to acquire, for non-Go
ernment use, domestically manufacture
precision components for mechanical tim
devices of a like quantity and type.

(d) The Contractor agrees to retain unt
the expiration of three (3) years from th
date of final payment under this contra
and to make available during such perio
upon request of the Contracting Office
records showing compliance with th
clause.

(e) The Contractor agrees to insert th
clause, including this paragraph (e),
every subcontract and purchase order issu
in performance of this contract, unless h
knows that the item being purchased co
tains no precision components for mechan
cal time devices.

(End of clause)

252.208-7002 Required sources for high-purity silicon.

As prescribed at 208.7503(a), insert the following clause:

REQUIRED SOURCES FOR HIGH-PURITY SILICON (JUN 1983)

(a) For the purpose of this clause:

Domestic manufacture means high-purity silicon manufactured in the United States or Canada. When an item or subassembly containing high-purity silicon is involved, all such high-purity silicon incorporated in the item or subassembly must also have been manufactured in the United States or Canada.

High-purity silicon is N or P type and has a resistivity greater than 3000 ohm—centimeter.

(b) The Contractor agrees that end items and components thereof delivered under this contract shall contain high-purity silicon of domestic manufacture only.

(c) The requirement for delivery in (b) above may be waived in whole or in part by the Contracting Officer when such waiver is determined to be in the Government's interest.

(d) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in every subcontract or purchase order which involves the purchase of an item or subassembly containing high-purity silicon.

(End of clause)

252.208-7003 Required sources for High Carbon Ferrochrome (HCF).

As prescribed at 208.7603(a), insert the following clause:

REQUIRED SOURCES FOR HIGH CARBON FERROCHROME (AUG 1984)

(a) For the purpose of this clause: "U.S. manufacture" means high carbon ferrochrome manufactured in the United States regardless of source of the chrome ore. HCF means ferrochromium alloy that contains three percent or more carbon and 50 percent or more chromium.

(b) The Contractor agrees that end items, components and processed materials thereof delivered under this contract shall contain HCF of U.S. manufacture, and/or it has met the requirements of paragraph (g) of this clause.

(c) The Contractor agrees to insert this clause, including this paragraph (c), in every subcontract and purchase order issued in performance of this contract, unless he knows that the item being purchased contains no HCF.

(d) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The requirement for delivery in (b) above may be waived in whole or in part on a case-by-case basis by the Contracting Officer when such waiver is determined to be in the Government's interest and it meets the provisions of Subpart 208.76 of the DoD FAR Supplement.

(f) The provisions of this clause do not apply to the Contractor when he obtains an end item in support of DoD Memoranda of Understanding (MOU)/offset agreements with NATO Allies and nondomestic HCF is incorporated in the end item being furnished in support of the defense contract.

(g) The Contractor or subcontractor that uses HCF to produce end items, components or processed material is not required to keep its inventory of U.S. versus foreign produced HCF separate for storage or control purposes. However, contractor or subcontractor must be able to show (when requested by the Contracting Officer) that U.S. HCF in adequate quantities has been procured in support of the defense contract when required end items, components or processed material incorporate HCF in the manufacturing process.

(End of clause)

252.208-7004 Notice of intent to furnish precious metals as government-furnished material.

As prescribed at 208.7703(a), insert the following provision.

NOTICE OF INTENT TO FURNISH PRECIOUS METALS AS GOVERNMENT-FURNISHED MATERIAL (OCT 1985)

(a) It is the Government's intent to furnish precious metal(s) required in the manufacture of contractually-deliverable items by the Offeror in performance of any contract resulting from this solicitation pursuant to the clause "Government-Furnished Property" herein (except that use of Government-furnished silver is mandatory only when the quantity required is one hundred (100) troy ounces or more), if such action is determined to be in the Government's best interest.

(b) To facilitate such determination the Offeror shall cite below the type (silver, gold, platinum, palladium, iridium, rhodium, and ruthenium) and quantity (in whole troy ounces) of precious metal(s) required in the performance of this contract (including precious metal required for any first article or production sample), and shall also cite in what contractually-deliverable item the precious metal(s) will be used, specifying National Stock Number and Nomenclature, if known.

Type of precious metal required [1]	Quantity (in whole troy ounces)	Contractually-deliverable item in which precious metals will be used (cite NSN and nomenclature)

[1] If platinum or palladium, specify whether sponge or granules are required.

(c) Offerors shall submit two prices for each contractually-deliverable item containing precious metal: one based on the Government's furnishing precious metals, and one based on the Contractor's furnishing precious metals; and award will be made, considering the Government-furnished material unit price, which is in the best interest of the Government.

(d) The Contractor agrees to insert this provision, including this paragraph (d), in solicitations for subcontracts and purchase orders issued in performance or any contract resulting from this solicitation unless the Contractor knows that the item being purchased contains no precious metals.

(End of provision)

252.208–7005 Required sources for forging and welded shipboard anchor chain items used for military application for combat and direct combat support items.

As prescribed at 208.7803, insert the following clause:

REQUIRED SOURCES FOR FORGING AND WELDED SHIPBOARD ANCHOR CHAIN ITEMS (AUG 1985)

(a) For the purpose of this clause:

Domestic manufacture means forging items manufactured in the United States or Canada.

End item means a final combination of end products, component parts, and/or materials which is ready for its intended use, per JCS Publication #1 (DoD Dictionary of Military and Associated Terms).

(b) The Contractor agrees that end items, components, and processed materials thereof delivered under this contract shall contain domestic forging and welded shipboard anchor chain (smaller then four inches in diameter) items of United States and Canadian manufacturers only as listed in section 208.7802-1 of the DoD FAR Supplement. This restriction does not include forgings for commercial vehicles (such as commercial cars and trucks) or to noncombat support military vehicles.

(c) A Canadian firm may bid on and supply any of the restricted items if: (1) It normally produces similar items or it is currently producing the item in support of DoD contracts (as prime or subcontractor); and (2) it agrees to become (upon receiving a contract/order) a planned producer under DoD's Industrial Preparedness Program (IPP), if it is not already a planned producer for the item.

(d) The Contractor agrees to insert this clause, including this paragraph (d), in every subcontract and purchase order issued in performance of this contract, unless he knows that the item being purchased contains none of the restricted forging or welded shipboard anchor chain items.

(e) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(f) The requirement for delivery in (b) above may be waived in whole or in part on a case-by-case basis by the Contracting Officer when such a waiver is determined to be in the Government's interest and it meets the provisions of Subpart 208.78 of the DoD FAR Supplement.

(End of clause)

252.208–7006 Required sources for antifriction bearings.

As prescribed in 208.7905 insert the following clause in solicitations and contracts:

REQUIRED SOURCES FOR ANTIFRICTION BEARINGS (APR 1989)

(a) For the purpose of this clause:

Bearing components means the bearing element, retainer, inner race, or outer race.

Bearings means antifriction bearings.

Commercial product means a product, such as an item, material, component, subsystem, or system sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices (see FAR 15.804-3(c) for an explanation of terms). It does not include items designed or developed under a government contract or bearings and bearing components.

Custom/speciality Bearings means those bearings having tolerance equivalent to super precision-bearings or greater, and those bearings which contain components or have assembly characteristics that meet or exceed ABEC/RBEC 5.

Domestic manufacture means wholly manufactured in the United States or Canada. When a bearing assembly is involved, all components of the assembly must be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube or rod stock and lubricants, need not be domestically mined or produced.

Miniature and instrument ball Bearings means rolling element ball bearings having a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material tolerance, performance, or quality characteristics (see DFARS subpart 208.73).

Super-precision Bearings means bearings having a precision classification of ABEC/RBEC 5 or higher;

(b) Bearings, bearing components, or bearings installed in defense end items, subassemblies or components, supplied under the contract, shall be of domestic manufacture.

(c) The Contractor shall certify to the Contracting Officer in writing upon delivery of the bearings, bearing components, or defense end items or subassemblies containing bearings, that to the best of its knowledge and belief, such bearings or bearing components are of domestic manufacture.

(d) The government may waive the requirements in paragraphs (b) and (c) above, in whole or in part. However, before a waiver may be considered for a multiyear contract or one that may exceed 12 months, the Contractor shall submit a written plan for the transition from bearings that are not domestically manufactured to bearings of domestic manufacture. The plan shall identify all bearings currently in use that are not of domestic manufacture, their application and source of manufacture, a plan for the transition to domestically manufactured bearings, the costs associated with the transition, and a timetable for transition. If acceptable to the Government, the plan will be incorporated into the contract.

(e) Paragraphs (b), (c), and (d) do not apply to—

(1) End items, subassemblies and components that are commercial products;

(2) Miniature and instrument bearings which are restricted by DFARS Subpart 208.73; and

(3) Bearings covered by the following Military Specifications, for contracts entered into prior to December 31, 1989:

MIL B 6039 Bearing, double row, ball, sealed rod end, antifriction, self-aligning

MIL B 7949 Bearing, ball, airframe, antifriction

MIL B 8952 Bearing, roller, rod end, antifriction self-aligning

(f) The Contractor agrees that the terms of this clause, appropriately modified to reflect the identity of the parties, including this paragraph, will be inserted in every subcontract and purchase order issued in performance of this contract, unless any of the exceptions listed in DFARS 208.7905(b) exist.

(End of clause)

[54 FR 14655, Apr. 12, 1989; 54 FR 16438-T, Apr. 24, 1989, as amended at 54 FR 20596, May 12, 1989; 54 FR 31039, July 26, 1989]

252.209-7000 Certification or disclosure of ownership or control by a foreign government that supports terrorism.

As prescribed at 209.170-4, insert the following provision:

CERTIFICATION OR DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT THAT SUPPORTS TERRORISM (NOV 1987)

(a) "Significant interest" as used in this provision means—

(1) Ownership of or beneficial interest in five percent (5%) or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent (5%) or more of any class of the firm's securities in "nominee shares", "street names", or some other method of holding securities that does not disclose the beneficial owner;

(2) Holding a management position in the firm such as director or officer;

(3) Ability to control or influence the election, appointment, or tenure of directors or officers of the firm;

(4) Ownership of ten percent (10%) or more of the assets of a firm such as equipment, buildings, real estaste, or other tangible assets of the firm; or

(5) Holding fifty percent (50%) or more of the indebtedness of a firm.

(b) Unless paragraph (c) below has been completed, the Offeror, by submission of its offer, certifies, to the best of its knowledge and belief, that no government of a foreign country, or agent or instrumentality of a foreign country, listed below, has, directly or indirectly, a significant interest in the Offeror or, if the Offeror is a subsidiary, in the firm that owns or controls, directly or indirectly, the Offeror. Such countries currently include:

(1) Cuba;

(2) Iran;

(3) Libya;

(4) Syria; and

(5) South Yemen.

(c) If the Offeror is unable to certify in accordance with (b) above, the Offeror represents that the following country or countries (listed in (b) above) or an agent or instrumentality of such country or countries, have a significant interest in the Offeror's firm:

Country———— ——————————

Significant Interest ——————————

(End of provision)

[53 FR 38196, Sept. 29, 1988]

252.209-7001 Acquisitions from subcontractors subject to on-site inspection under the Intermediate-Range Nuclear Forces (INF) Treaty.

As prescribed at 209.103(S-71), insert the following clause:

Acquisitions From Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty (Jan 1990)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor' subject to on-site inspection under the INF Treaty solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, with appropriate changes to identify properly the contracting parties, including this paragraph (b), in all solicitations and contracts in excess of the dollar limitation identified at FAR 13.000, except those for commercial or commercial-type products (see FAR 11.001).

(End of clause)

[54 FR 53620, Dec. 29, 1989]

252.210-7000 Brand name or equal.

As prescribed at 210.004(b)(3)(ii)(B), insert the following provision:

BRAND NAME OR EQUAL (APR 1973)

(As used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this Invitation for Bids have been identified in the Schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products including products of the brand name manufacturer other than the one described by brand name will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics requirements referenced in the Invitation for Bids.

(b) Unless the bidder clearly indicates in the bid that the bidder is offering an "equal" product, the bid shall be considered as offering a brand name product referenced in the Invitation for Bids.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the Invitation for Bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in the bid, as well as other information reasonably available to the contracting activity. CAUTION TO BIDDERS. The contracting activity is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the contracting activity. Accordingly, to insure that sufficient information is available, the bidder must furnish as a part of the bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting activity to (i) determine whether the product offered meets the salient characteristics requirements of the Invitation for Bids and (ii) establish exactly what the bidder proposes to furnish and what the Government would be binding itself to acquire by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the contracting activity.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the Invitation for Bids, the bidder shall (i) include in the bid a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the Invitation for Bids will not be considered.

(End of provision)

252.210-7001 [Reserved]

252.210-7002 Availability of specifications and standards not listed in DODISS, data item descriptions not listed in Department of Defense 5010.12-L, and plans, drawings, and other pertinent documents.

As prescribed at 210.011(S-71), insert the following provision:

AVAILABILITY OF SPECIFICATIONS AND STANDARDS NOT LISTED IN DODISS, DATA ITEM DESCRIPTIONS NOT LISTED IN DOD 5010.12-L, AND PLANS, DRAWINGS, AND OTHER PERTINENT DOCUMENTS (JUN 1977)

The specifications, standards, plans, drawings, descriptions and other pertinent documents cited in this solicitation may be obtained by submitting request to:

(Activity) ———————————————

(Complete Address) ——————————

Requests should give the number of the solicitation and the title and number of the specification, standard, plan, drawing or other pertinent document requested, exactly as cited in this solicitation.

(End of provision)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38176, Sept. 29, 1988]

252.210-7003 Availability for examination of specifications, standards, plans, drawings, data item descriptions, and other pertinent documents.

As prescribed at 210.011(S-71), insert the following provision:

AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS, STANDARDS, PLANS, DRAWINGS, DATA ITEM DESCRIPTIONS, AND OTHER PERTINENT DOCUMENTS (JUN 1977)

The specifications, standards, plans, drawings, descriptions, and other pertinent documents cited in this solicitation may be examined at the following locations:

———————————————————

(Insert Complete Address)

(End of provision)

252.210-7004 Bill of materials.

As prescribed at 210.011(S-72), insert the following clause:

BILL OF MATERIALS (APR 1955)

(a) With respect to the supplies to be delivered pursuant to the contract, for which a Bill of Materials is required, the Contractor shall furnish a Bill of Materials in the required number of copies on Department of Defense Forms 346 and 347 if applicable, or authorized reproductions thereof, in accordance with the instructions specified in the Schedule.

(b) The Contractor shall furnish to the Government, at such intervals as designated in the Schedule, revised pages of the Bill of Materials incorporating the effect of any changes, pursuant to the clause hereof entitled "Changes", in the quantity of any material or part, or any other information contained in the Bill of Materials, or a statement that no revision is necessary. A final revision, or statement that no revision is necessary, shall be furnished upon completion of performance of the contract.

(c) The Bill of Materials and all revisions or statements subsequent thereto shall be subject to inspection and acceptance by the Government.

(End of clause)

252.210-7005 Acquisition streamlining.

As prescribed in 210.011(S-73), insert the following clauses:

ACQUISITION STREAMLINING (APR 1988)

(a) It is the objective of the Government to acquire systems that meet stated performance requirements. The Government also desires to avoid over-specification and to ensure that cost-effective requirements are included in future acquisitions. The Contractor shall prepare and submit acquisition streamlining recommendations in accordance with the statement of work of this contract. These recommendations shall be formatted and submitted as identified in the contract data requirements list (CDRL). However, recommendations may be accepted, modified, or rejected by the Government.

(b) The Contractor shall insert this clause, including this paragraph (b), in all subcontracts in excess of one million dollars ($1 million).

(End of clause)

[53 FR 35202, Sept. 12, 1988]

252.212-7000 Exclusion of periods in computing completion schedules.

As prescribed at 212.102(b), insert the following clause:

EXCLUSION OF PERIODS IN COMPUTING COMPLETION SCHEDULES (JAN 1965)

No work will be required during the period between ______ and ______ inclusive and such period has not been considered in computing the time allowed for completion. The Contractor may, however, perform work during all or any part of this period upon giving prior written notice to the Contracting Officer. If the work performed during such period is less than *(______ cubic yards) (the average monthly work necessary to complete the contract within the time specified) and the Contracting Officer maintains an inspection force during this period to inspect the work, the Contractor will be charged the percentage of the cost of maintaining such force that his work is less than *(______ cubic yards) (the average monthly work necessary to complete the contract within the time specified).

(End of clause)

* Delete inapplicable provision.

252.214-7000 [Reserved]

252.214-7001 Domestic source restriction.

As prescribed at 214.201-6(S-70), insert the following provision:

DOMESTIC SOURCE RESTRICTION (AUG 1987)

This solicitation is restricted to domestic sources under the authority of FAR 6.302-3. Accordingly, foreign sources, except Canadian sources, are not eligible for award.

(End of provision)

[53 FR 38176, Sept. 29, 1988]

252.215-7000 Aggregate pricing adjustment.

As prescribed at 215.804-8(S-70), insert the following clause:

AGGREGATE PRICING ADJUSTMENT (APR 1985)

In determining whether a pricing adjustment is expected to exceed $100,000, the term "pricing adjustment" shall mean "the aggregate increases and/or decreases in cost plus applicable profits."

(End of clause)

252.215-7001 IMIP productivity savings rewards.

As prescribed at 215.872(f), insert the following clause:

IMIP PRODUCTIVITY SAVINGS REWARDS (JULY 1987)

(a) *Purpose.* The purpose of this clause is to permit a contractor to be paid Productivity Savings Rewards (PSR) in accordance with the terms and conditions of an Industrial Modernization Incentives Program (IMIP) business agreement contained in this contract or which benefits this contract. PSR constitutes the Contractor's incentives paid from the total DoD net benefits (savings/cost avoidances).

(b) *Applicability.* This clause provides conditions for payment of the PSR amount applicable to this contract pursuant to the provisions of the IMIP business agreement. Inclusion of this clause in this contract does not in itself result in the payment of any PSR amounts to the Contractor. This clause shall become operable only when an IMIP business agreement has been established and placed in an IMIP contract, or incorporated into this contract, including all of the terms and conditions for payment of the PSR, the total amount of the PSR, and specifying that this total amount has not been earned through previous contracts. This agreement may be directly between DoD and the Contractor, or between the Contractor and a a lower-tier DoD Contractor; *Provided,* DoD approval has been obtained for the subcontract program.

(1) *Payment.* The Contracting Officer is authorized to approve payment of PSR amounts under this contract during the sharing period as defined in the IMIP business agreement. PSR amounts may be calculated and paid through a protected sharing, a sharing factor, or other approach as agreed to in the IMIP business agreement. The amount of PSR allocable to this contract along with the frequency of payment will be determined in accordance with the terms and conditions of the IMIP business agreement. When these conditions are met and verified, as determined by the Contracting Officer, the Contractor shall be paid PSR amounts on this contract. The Contractor or subcontractor shall keep records acceptable to the Contracting Officer of all PSR payments received under a specific IMIP business agreement. The Contractor is authorized to request payment of PSR is accordance with terms specified in the IMIP business agreement.

(2) *Sharing Factor Certification.* When a sharing factor approach is used, the Contractor shall include the following certification on each invoice for payment of a PSR share:

It is hereby certified that the PSR amount requested on this invoice represents an incremental share of the total PSR amount agreed to in the IMIP Business Agreement or this contract, dated ______, between the Government and ______, for which no entitlement has been previously paid.

(3) *Subcontract Applicability.* The Contractor shall include this clause (suitably modified, except for the certification requirement, to meet the circumstances of the subcontract concerned), and shall provide payment of PSR amounts for any subcontract wherein the subcontractor is participating in a DoD-approved IMIP business agreement. The only change authorized in the certification at (b)(2) is that necessary to reflect the identities of the parties involved. All subcontractor cost/price reductions on DoD programs attributable to an IMIP after establishment of the PSR shall be directly and entirely passed through to the Government.

(End of clause)

[52 FR 26347, July 14, 1987]

§ 252.215-7002 Availability of contractor records.

As prescribed in 215.875, insert the following clause:

AVAILABILITY OF CONTRACTOR RECORDS (APR 87)

(a) Upon request by the Contracting Officer, the Contractor shall make available, in a timely manner, to the Contracting Officer or to an authorized representative of the Contracting Officer (who is an employee of the United States or a member of the Armed Forces), records of the contract and of end items under the contract for:

(1) The proposed, negotiated and incurred costs and related profit or fee;

(2) Bills of materials; and

(3) Work measurement system data (and any revision to such data), including standard hours of work content. These work measurement system data are those generated from time standard setting, time monitoring and variance analysis, produced for such purposes as planning, cost estimating, and productivity improvement. This availability includes access to proposed and negotiated work measurement system data (and any revision to such data).

(b) Nothing in this clause shall require the Contractor to collect or maintain additional data not otherwise collected or maintained nor to maintain data in a form or manner different from that in which the Contractor maintains such data.

(c) Any data covered by this clause shall be available for review until three (3) years after final payment under this contract.

(End of clause)

[52 FR 11277, Apr. 8, 1987; 52 FR 13447, Apr. 23, 1987. Redesignated at 52 FR 26347, July 14, 1987; 53 FR 38176, Sept. 29, 1988]

252.215-7003 Cost estimating system requirements.

As prescribed in 215.811-79, insert the following clause:

COST ESTIMATING SYSTEM REQUIREMENTS (JAN 1990)

(a) *Definition.* "Estimating System" is a term used to describe a contractor's policies, procedures and practices for generating cost estimates which forecast costs based on information that is available at the time. It includes the organizational structure; established lines of authortiy, duties, and responsibilities; internal controls and managerial reviews; flow of work, coordination, and communication; and estimating methods, techniques, accumulation of historical costs, and analyses used by a contractor to generate estimates of costs and other data included in proposals submitted in the expectation of receiving contract awards.

(b) *General.* The Contractor shall have an estimating system that consistently produces well supported proposals that are an acceptable basis for negotiation of fair and reasonable prices. The estimating system should be consistent with and integrated with the Contractor's related management systems and subject to applicable financial control systems. The Contractor's estimating system must be in compliance with subsection 215.811-74 of the DoD FAR Supplement.

(c) *Applicability.* Paragraphs (d) and (e) are also applicable if the Contractor is a large business and, in its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contractors or subcontracts thereunder totaling fifty million dollars ($50 million) or more for which certified cost or pricing data were required. Paragraphs (d) and (e) of the clause are also applicable if the Contractor is a large business which, in its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contracts or subcontracts thereunder totaling ten million dollars ($10 million) or more for which certified cost or pricing data were required, and during performance of this contract the Contracting Officer notifies the Contractor in writing that paragraphs (d) and (e) of this clause apply.

(d) *System requirements.* The Contractor shall establish and maintain an estimating system in compliance with subsection 215.811-74 of the DoD FAR Supplement.

(1) The Contractor shall disclose its estimating system to the Contracting Officer responsible for contract administration (ACO) in writing. If the Contractor wishes the Government to protect such information as privileged or confidential, an appropriate legend should be placed on the face of the document(s) at the time of submission. An estimating system disclosure is adequate when the Contractor has provided the ACO with documentation which (i) accurately describes those policies, procedures and practices that the Contractor currently uses in preparing cost proposals; and (ii) provides sufficient detail for the Government to reasonably make an informed judgment regarding the adequacy of the Contractor's estimating practices.

(2) Significant changes to the cost estimating system must be disclosed to the ACO on a timely basis.

(3) The Contractor shall comply with its disclosed estimating system.

(e) *Estimating system deficiencies.* (1) If during the period of performance of this contract, the Contractor receives a report of the review of its estimating system which identifies deficiencies in the system, the Contractor agrees to respond as follows:

(i) If the Contractor agrees with the report findings and recommendations, the Contractor shall, within thirty (30) days of receipt of such report, indicates its agreement in writing; and within (60) days of receipt of such report, correct any identified deficiencies or submit a corrective action plan showing proposed milestones and actions leading to elimination of the deficiencies.

(ii) If the Contractor disagrees with the report findings and recommendations, the Contractor shall respond in writing within thirty (30) days of receipt of the report, indicating its rationale for each area of disagreement.

(2) The ACO shall evaluate the Contractor's response to the report and notify the Contractor of his/her determination concerning any remaining deficiencies and/or the adequacy of any proposed or completed corrective action(s).

(End of clause)

[53 FR 8910, Mar. 18, 1988; 53 FR 11073, Apr. 5, 1988, as amended at 54 FR 11725, Mar. 22, 1989; 54 FR 53620, Dec. 29, 1989; 55 FR 39971, October 1, 1990]

252.216-7000 Economic price adjustment—basic steel, aluminum, brass, bronze or copper mill products.

As prescribed at 216.203(S-70)(a), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—BASIC STEEL, ALUMINUM, BRASS, BRONZE OR COPPER MILL PRODUCTS (AUG 1978)

(a) The Contractor warrants that the unit price stated herein for ______ is not in excess of the Contractor's applicable established price in effect on the date set for opening of bids (or the contract date if this is not a contract entered into by means of formal advertising) for like quantities of the same item. The term "unit price" excludes any part of the price which reflects requirements for preservation, packaging and packing beyond standard commercial practice. The term "established price" means one which (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public and (2) meets the criteria of FAR 15.804-3. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor from his catalog, list, or schedule price.

(b) The Contractor shall promptly notify the Contracting Officer as to the amount and effective date of each decrease in any applicable established price, and each corresponding contract unit price shall be decreased by the same percentage that the said established price is decreased. Such decrease shall apply to items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly. The Contractor shall certify on each invoice that each unit price stated therein reflects all decreases required by this clause, or shall certify on the final invoice that all price decreases required by this clause have been applied in the manner herein required.

(c) If the Contractor's applicable established price is increased after the date set for opening of bids (or the contract date, if this is not a contract entered into by means of formal advertising), the corresponding contract unit price shall be increased, upon the Contractor's request in writing to the Contracting Officer, by the same percentage that the established price is increased and the contract shall be modified accordingly, *provided* that:

(1) The aggregate of the increases in any contract unit price under this clause shall not exceed ten percent (10%) of the original contract unit price;

(2) The increased contract unit price shall be effective on the effective date of the increase in the applicable established price if the Contractor's written request is received by the Contracting Officer within ten (10) days thereafter, but if not, the effective date of increased unit price shall be the date of receipt by the Contracting Officer of such request;

(3) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price unless the Contractor's failure to deliver before such date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the "Default" clause of this contract.

(4) No modification incorporating an increase in a contract unit price shall be executed pursuant to this clause until the increase in the applicable established price has been verified by the Contracting Officer.

(d) Within thirty (30) days after receipt of the Contractor's written request the Contracting Officer may cancel, without liability to either party, any portion of the contract affected by the requested increase and undelivered at the time of such cancellation, except that the Contractor may thereafter deliver any items which the Contractor certifies, by notice received by the Contracting Officer within ten (10) days after the Contractor receives the cancellation notice, were completed or in the process of manufacture at the time of receipt of such cancellation notice, and the Government shall pay for such items so delivered at the contract unit price increased to the extent provided by (c) above. Any standard steel supply shall be deemed to be in the process of manufacture when the steel therefore is in any state of processing after the beginning of the furnace melt.

(e) Pending any cancellation of this contract as provided in (d) above and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the delivery schedule of the contract and shall be paid for such deliveries at the contract unit price increased to the extent provided by (c) above.

(End of clause)

252.216-7001 Economic price adjustment—nonstandard steel items.

As prescribed at 216.203(S-70)(b), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—NONSTANDARD STEEL ITEMS (AUG 1978)

(a) The term "established price" as used in this clause is one which (1) is an established catalog or market price of a commercial item sold in substantial quantities to the general public and (2) meets the criteria of Federal Acquisition Regulation 15.804-3. Such a price is the net price after applying any applicable standard trade discounts offered by the Contractor from his catalog, list, or scheduled price. (But see Note (8).)

(b) Each contract unit price shall be subject to revision, pursuant to the provisions of this clause, to reflect changes in the cost of labor and steel. For the purpose of any such price revision, the proportion of the contract unit price attributable to costs of labor not otherwise included in the price of the steel item identified in paragraph (d) below shall be ______ percent, and the proportion of the contract unit price attributable to the cost of steel shall be ______ percent. (*See Note (1).*)

(c) For the purposes of this paragraph, the term "labor index" shall mean the average straight time hourly earnings of the Contractor's employees in the ______ shop of the Contractor's ______ plant (*see Note (2)*) for any particular month. The word "month" as used herein means "calendar month;" *provided*, however, that if the Contractor's accounting period does not coincide with the calendar month, then such accounting period shall be used throughout the clause in lieu of "month." Unless otherwise specified in this contract, the labor index shall be computed by dividing the total straight time earnings of the Contractor's employees in the particular shop identified above for any given month by the total number of straight time hours worked by such employees in that month. Any revision in a contract unit price to reflect changes in the cost of labor shall be computed solely by reference to the "base labor index," which shall be the average of the labor indices for the three (3) months consisting of the month of ______, 19___, (*see Note (3)*) the month immediately preceding and the month immediately following, and to the "current labor index," which shall be the average of the labor indices for the month in which delivery of supplies is required to be made in accordance with the terms of this contract and the month preceding.

(d) Any revision in a contract unit price to reflect changes in the cost of steel shall be computed solely by reference to the "base steel index," which shall be the Contractor's established price (*see Note (8)*) including all applicable extras of $____ per ___ (*see Note (4)*) for ______ (*see Note (5)*) on ______, 19___, (*see Note (6)*) and the "current steel index," which shall be the Contractor's established price (*see Note (8)*) of said item including all applicable extras in effect ______ days (*see Note (7)*) prior to the first day of the month in which delivery of supplies is required to be made in accordance with the terms of the contract.

(e) Each contract unit price shall be revised for each month in which, by the terms of this contract, delivery of supplies is required to be made, and such revised contract unit price shall apply to the deliveries of those quantities of supplies required to be made in that month regardless of when actual delivery is made of said quantities of supplies. Each revised contract unit price for any month shall be computed by adding together the following three amounts: (1) the amount (representing the adjusted cost of labor) obtained by multiplying ___ percent of the contract unit price by a fraction, the numerator of which shall be the current labor index and the denominator of which shall be the base labor index; (2) the amount (representing the adjusted cost of steel) obtained by multiplying ___ percent of the contract unit price by a fraction, the numerator of which shall be the current steel index and the denominator of which shall be the base steel index; and (3) the amount equal to ___ percent of the original contract unit price (representing that portion of such unit price which relates neither to the cost of labor nor to the cost of steel and which is therefore not subject to revision (*see Note (1)*); *provided*, however, that any revised contract unit price made pursuant to the provisions of this clause shall in no event exceed one hundred and ten percent (110%) of the original contract unit price. All computations shall be made to the nearest one-hundredth of one cent.

(f) Pending revisions of the contract unit prices, if any, to be made pursuant to this clause, the Contractor shall be paid the contract unit price for deliveries made. Within thirty (30) days after the final delivery of supplies, or within such further period of time as may be authorized by the Contracting Officer, the Contractor shall furnish a statement setting forth and certifying the correctness of (1) the average straight time hourly earnings of the Contractor's employees in the shop of the Contractor identified in paragraph (c) above which earnings are relevant to the computations of the "base labor index" and the "current labor index" and (2) the Contractor's established prices (*see Note (8)*) including all applicable extras for like quantities of the item identified in paragraph (d) above, which prices are relevant to the computation of the "base steel index" and the "current steel index." Upon request of the Contracting Officer, the Contractor shall make available his records used in the computation of the labor indices. After the receipt of such certificate by the Contracting Officer, the revised contract unit prices shall be computed in accordance with the provisions of this clause, and this contract shall be modified accordingly. However, no modification to this contract shall be made pursuant to this clause until the revised established price (*see Note (8)*) has been verified by the Contracting Officer.

(g) In the event of any total or partial termination of any item of this contract for the convenience of the Government, the month in which notice of such termination is received by the Contractor, if prior to the month in which the delivery is required by this contract, shall be considered the month in which delivery of such terminated or partially terminated item is required for the purpose of determining the current labor and steel indices under paragraphs (c) and (d) hereof; *provided*, however, that as to the quantity of such item which is not terminated for convenience, the month in which delivery is required by this contract shall continue to apply for determining said indices. In the case of termination of any steel item for default of the Contractor, any price revision shall be limited to the quantity of such item which has been delivered by the Contractor and accepted by the Government prior to receipt by the Contractor of notice of termination for default.

(h) As used in this clause the phrase "the month in which delivery of supplies is required to be made in accordance with the terms of this contract" shall mean any month in which under the terms of this contract a specific quantity of units of the supplies called for by this contract is required to be delivered; *provided*, however, that in the case of the failure of the Contractor to make delivery of such quantity shall have arisen out of causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the clause of this contract entitled "Default," the quantity not delivered shall be required to be delivered as promptly as possible after the cessation of the cause of such failure, and the delivery schedule set forth in this contract shall be amended accordingly.

NOTES:

(1) Bidder insert the same percentage figures for the corresponding blanks in paragraphs (b) and (e) (1) and (2). In paragraph (e)(3), bidder insert the percentage representing the difference between the sum of the percentages inserted in paragraph (b) and 100 percent.

(2) Bidder identify the shop and plant in which the standard steel mill item identified in paragraph (d) will be finally fabricated or processed into the contract item.

(3) Bidder insert the month of bid opening, or the month in which the Contractor submitted his proposal if this is a negotiated contract.

(4) Bidder insert the unit price and unit measure of the standard steel mill item used by the Contractor in the manufacture of the contract item.

(5) Bidder identify the standard steel mill item used by the Contractor in the manufacture of the contract item.

(6) Bidder insert the date set for bid opening, or the date of the Contractor's quotation if this is a negotiated contract.

(7) Bidder insert the number of days which represents the Contractor's best estimate of the period of time required for processing the standard steel mill item in the shop identified in paragraph (c).

(8) In negotiated procurements of nonstandard steel items, when there is no "established price" or when it is not desirable to use such price, this paragraph may refer to another appropriate price basis, such as an established interplant price.

(End of clause)

252.217-7000 Exercise of option to fulfill Foreign Military Sales commitments.

As prescribed at 217.208(S-70)(1), insert the following clause:

EXERCISE OF OPTION TO FULFILL FOREIGN MILITARY SALES COMMITMENTS (APR 1984)

The U.S. Government may exercise the option or options under the option clause of this contract to fulfill Foreign Military Sales commitments undertaken by the U.S. Government on behalf of a foreign country.

(End of clause)

252.217-7001 Exercise of option to fulfill Foreign Military Sales commitments (Alt. 1).

As prescribed at 217.208(S-70)(2), insert the following clause:

EXERCISE OF OPTION TO FULFILL FOREIGN MILITARY SALES COMMITMENTS (ALT. 1) (APR 1984)

The U.S. Government may exercise the option or options under the option clause of this contract to fulfill Foreign Military Sales commitments undertaken by the U.S. Government on behalf of a foreign country. At the date of exercise of the option, the U.S. Government will identify the foreign country for the purpose of negotiating an equitable price adjustment for any cost or profit considerations attributable to Foreign Military Sales requirements in section 225.7304 and paragraph 215.905-1(b)(7)(iii)(E) of the DoD FAR Supplement. Failure to agree to such an equitable adjustment shall be treated as a dispute within the meaning of the clause of this contract titled "DISPUTES".

(End of clause)

252.217-7100 Definitions.

As prescribed at 217.7104(a), insert FAR clause 52.202-1 (APR 1984).

252.217-7101 Changes.

As prescribed at 217.7104(a), insert the following clause:

CHANGES (APR 1982)

The Contracting Officer may at any time, by written change order, and without notice to the sureties, make changes within the general scope of any job order issued under this agreement in (i) drawings, designs, plans and specifications, (ii) work itemized in any job order, (iii) place of performance of the work, and (iv) time of commencement or completion of the work, and may otherwise vary the requirements of the job order within the general scope thereof. If any such change causes an increase or decrease in the cost of, or the time required for, performance of the job order, whether changed or not changed by any such change order, an equitable adjustment shall be made in the price or in the date of completion, or both, and the job order shall be modified in writing accordingly. The price adjustment for the change order and the adjustment in the date of completion shall be agreed upon and reduced to writing at the time the change is ordered or as soon thereafter as practicable. A request for price adjustment, together with the Contractor's written estimate of the increased cost, must be asserted within ten (10) days from the date of receipt by the Contractor of the notification of change or within such further time as the Contracting Officer may allow on request made by the Contractor during such period; *provided, however*, that the Contracting Officer, if deciding that the facts justify such action, may receive and act upon any such request asserted at any later time prior to final payment under the job order, except that in such event no profit shall be allowed to the Contractor. Where the cost of property made obsolete or excess as result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of Clause 252.217-7111 entitled DISPUTES hereof. However, nothing in this clause shall excuse the Contractor from proceeding with the job order as changed.

(End of clause)

252.217-7102 Extras.

As prescribed at 217.7104(a), insert FAR clause 52.232.11 (APR 1984).

252.217-7103 Job orders and compensation.

As prescribed at 217.7104(a), insert the following clause:

JOB ORDERS AND COMPENSATION (APR 1985)

(a) (1) When the Contracting Officer invites bids for the performance of work under this agreement and, upon receipt of a bid in accordance therewith from the Contractor, determines that such work should be awarded to the Contractor, the price for the work shall be set forth in a job order and such job order shall be signed and issued by the Contracting Officer. The issuance of such job order shall constitute an award of the work to the Contractor in response to his bid. Such job order shall be deemed to incorporate the terms and conditions of this agreement.

(2) When the Contracting Officer requests proposals or quotations for the performance of work under this agreement on a negotiated basis and, upon receipt of proposals or quotations in accordance therewith from the Contractor, determines that the work should be performed by the Contractor, the price for the work shall be set forth in a job order, and such job order shall be signed and issued by the Contracting Officer and signed and acknowledged by the Contractor. Such job order shall be deemed to incorporate the terms and conditions of this agreement.

(b) Whenever the Contracting Officer determines that a vessel, its cargo or stores would be endangered by delay or whenever the Contracting Officer determines that military necessity requires immediate performance of work on a vessel, the Contracting Officer may issue a written order, with which the Contractor hereby agrees to comply, to perform work on such vessel within his capabilities. As soon as practicable after the issuance of such written order, the Contracting Officer and the Contractor shall negotiate a price for the work and the Contracting Officer shall issue a job order covering such work. In connection with negotiation of a price for such work, the Contractor shall, upon request, furnish the Contracting Officer with a breakdown of costs incurred by the Contractor and an estimate of costs expected to be incurred in the performance of such work as required by the Contracting Officer. The Contractor shall keep records showing the cost of performing such work, and such records shall be available for inspection by the Government at reasonable times. Failure of the parties to agree upon the price of such work shall constitute a dispute within the meaning of Clause 252.217-7111 entitled "DISPUTES". In the meantime, the Contractor shall diligently proceed with the performance of the work.

(c) If the nature of any repairs is such that their extent and probable cost are not readily ascertainable, the Contracting Officer may issue a job order, on a negotiated or sealed bidding basis, for the work necessary to determine the nature and extent of repairs. Upon determining the nature and extent of repairs, the Contractor shall, if so requested by the Contracting Officer, negotiate prices at which the Contractor will perform such work as the Contracting Officer may determine necessary to accomplish the repairs, and the prices so agreed upon shall be set forth in a modification of the job order. Failure of the parties to so agree shall constitute a dispute within the meaning of Clause 252.217-7111. In the meantime, the Contractor shall diligently proceed with the performance of the work specified in the job order as determined necessary by the Contracting Officer.

(End of clause)

252.217-7104 Inspection and manner of doing work.

As prescribed at 217.7104(a), insert the following clause:

INSPECTION AND MANNER OF DOING WORK (APR 1982)

(a) Work shall be performed hereunder in accordance with the job order, and any drawings and specifications made a part thereof, as modified by any change order issued under Clause 252.217-7101 entitled "CHANGES" hereof.

(b) Unless otherwise specifically provided in the job order, all operational practices of the Contractor and all workmanship and material, equipment and articles used in the performance of work hereunder shall be in accordance with the rules and requirements of the American Bureau of Shipping, the U.S. Coast Guard, and the Institute of Electrical and Electronic Engineers, in effect at the time of the Contractor's submission of bid (or acceptance of the job order, if negotiated) and the best commercial marine practices, except when Navy specifications are specified in the job order, in which case Naval standards of material and workmanship shall be followed. The solicitation shall prescribe the Navy standard whenever applicable, and the decision of the Contracting Officer shall be final.

(c) All material and workmanship shall be subject to inspection and test at all times during the Contractor's performance of the work to determine their quality and suitability for the purpose intended and compliance with the job order. In case any material or workmanship furnished by the Contractor is found prior to redelivery of the vessel to be defective, or not in accordance with the requirements of the job order, the Government, in addition to its rights under Clause 252.217-7130 entitled "GUARANTEES" hereof, shall have the right prior to redelivery of the vessel to reject such material or workmanship, and to require its correction or replacement by the Contractor at the Contractor's cost and expense. If the Contractor fails to proceed promptly with the replacement or correction of such material or workmanship, as required by the Contracting Officer, the Government may, by contract or otherwise, replace or correct such material or workmanship and charge to the Contractor the excess cost occasioned the Government thereby. As specified in the job order, the Contractor shall provide and maintain an inspection system acceptable to the Government covering the work specified in the job order. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of the job order and for a period of ninety (90) days after completion of all work required by the job order.

(d) No welder shall be permitted to work in connection with repairs, completion, alterations, or additions to vessels unless the welder is, at the time, qualified to the standards established by the U.S. Coast Guard, American Bureau of Shipping, or Department of the Navy for the type of welding being performed. Qualifications of a welder for this purpose shall be as specified in the job order. No welder shall be permitted to work on production applications of welding other than those for which the welder has qualified.

(e) The Contractor shall exercise reasonable care to protect the vessel from fire, and the Contractor shall maintain a reasonable system of inspection over the activities of welders, burners, riveters, painters, plumbers and similar workers, particularly where such activities are undertaken in the vicinity of the vessel's magazines, fuel oil tanks or storerooms containing flammable materials. A reasonable number of hose lines shall be maintained by the Contractor ready for immediate use on the vessel at all times while the vessel is berthed alongside the Contractor's pier or in drydock or on a marine railway. Unless otherwise provided in the job order, the Contractor shall provide sufficient security patrols to reasonably maintain a fire watch for protection of the vessel when the ship is in the Contractor's custody. All tanks under alteration or repair shall be cleaned, washed and steamed out or otherwise made safe by the Contractor if and to the extent necessary, and the Contracting Officer shall be furnished with a "gas-free" or "safe-for-hotwork" certificate before any hot work is done on a tank. The contents of any tanks shall be treated as Government property in accordance with Clause 252.217-7218 entitled "GOVERNMENT PROPERTY". Any disposition of said contents shall be at the direction and with the concurrence of the Contracting Officer.

(f) Except as otherwise provided in the job order, when the vessel is in the custody of the Contractor or in drydock or on a marine railway and the temperature becomes as low as thirty-five degrees (35°) Fahrenheit, the Contractor shall keep all hose pipe lines, fixtures, traps, tanks, and other receptacles on the vessel drained to avoid damage from freezing, or if this is not practicable, the vessel shall be kept heated to prevent such damage. The vessel's stern tube and propeller hubs shall be protected from frost damage by applied heat through the use of a salamander or other proper means.

(g) The work shall, whenever practicable, be performed in such manner as not to interfere with the berthing and messing of civilian or military personnel attached to the vessel, and provisions shall be made so that personnel assigned shall have access to the vessel at all times, it being understood that such personnel will not interfere with the work or the Contractor's workers.

(h) The Government does not guarantee the correctness of the dimensions, sizes, and shapes set forth in any job order, sketches, drawings, plans or specifications prepared or furnished by the Government, except when a job order requires that the work be performed by the Contractor prior to any opportunity to make the necessary inspection. The Contractor shall be responsible for the correctness of the shape, sizes, and dimensions of parts to be furnished hereunder except as above set forth and other than those furnished by the Government.

(i) The Contractor shall at all times keep the site of the work on the vessel free from accumulation of waste material or rubbish caused by his employees or the work, and at the completion of the work shall remove all rubbish from and about the site of the work and shall leave the work in its immediate vicinity "broom clean", unless more exactly specified in the job order.

(End of clause)

252.217-7105 Title.

As prescribed at 217.7104(a), insert the following clause:

TITLE (APR 1982)

Unless title to materials and equipment acquired or produced for, or allocated to, the performance of this agreement shall have vested previously in the Government by virtue of other provisions of this agreement, title to all materials and equipment to be incorporated in any vessel or part thereof, or to be placed upon any vessel or part thereof in accordance with the requirements of the job order, shall vest in the Government upon delivery thereof at the plant or such other location as may be specified in the job order for the performance of the work; *Provided*, however, that the provision of this clause or other provisions of this agreement shall not be construed as relieving the Contractor from the full responsibility for all such Contractor-furnished materials and equipment or the restoration of any damaged work or as a waiver of the right of the Government to require the fulfillment of all the terms of this agreement, it being expressly understood and agreed that the Contractor shall assume without limitation the risk of loss for any such materials and equipment until such time as all work is completed and accepted by the Government and the vessel is redelivered to the Government. Upon completion of the job order, or with the approval of the Contracting Officer at any time during the performance of the job order, all such Contractor-furnished materials and equipment not incorporated in any vessel or part thereof, or not placed upon any vessel or part thereof, in accordance with the requirements of the job order, shall become the property of the Contractor, except those materials and equipment the cost of which has been reimbursed by the Government to the Contractor.

(End of clause)

252.217-7106 Payments.

As prescribed at 217.7104(a), insert the following clause:

PAYMENTS (APR 1982)

(a) Progress payments (which are hereby defined as payments prior to completion of work in progress under any job order) shall be made as the work progresses upon the submission by the Contractor of invoices therefor in such form and with such copies as the Contracting Officer may prescribe. Such invoices may be submitted semimonthly or more frequently if expenditures by the Contractor warrant. No progress payment will be required under this clause upon invoices aggregating less than $5,000. Such progress payments shall be made upon the basis of the value, computed on the price of the job order, of labor and materials incorporated in the work, materials suitably stored at the site of the work, and preparatory work already completed, all as estimated or approved by the Contracting Officer, less the aggregate of any previous payments. For the purpose of enabling the Contracting Officer to make such estimate or give such approval, the Contractor will furnish to the Contracting Officer, upon re-
quest, such reports concerning expenditu
on the work to date as may be requested.

(b) In making such progress payme
there shall be retained five percent (5%
the amount estimated or approved by
Contracting Officer pursuant to paragr
(a) above until final completion and acc
ance of all work covered by the job orde

(c) If the Contracting Officer so dir
progress payments under paragraph
this clause shall be based upon the
the job order as adjusted from tim
as a result of change orders under
252.217-7101 entitled CHANGES hereof
the Contracting Officer has not dire
that the increase or decrease in price
result of any change order be taken into
count for purposes of progress payme
under paragraph (a) of this clause, (i)
ments on account of such increases shal
made from time to time when the incre
is determined pursuant to Clause 252.
7101 entitled CHANGES; and (ii) reduct
on account of such decreases shall be
for the purposes of subsequent pr
payments as soon as the amounts the
are determined pursuant to Clause 252.
7101 entitled CHANGES hereof.

(d) Upon completion of the work und
job order and final inspection and acc
ance thereof and upon submission of
voices therefor in such form and with
copies as the Contracting Officer may
scribe, the Contractor shall be paid for
price of the job order, as adjusted purs
to Clause 252.217-7101 entitled CHAN
hereof, less the amount of all previous
ments.

(e) All materials, equipment, and o
property or work in process covered
progress payments made by the Gov
ment shall upon the making of
progress payments become the sole prop
of the Government, and shall be subje
the provision of Clause 252.217-7105
tled TITLE hereof.

(End of clause)

252.217-7107 Assignment of claims.

As prescribed at 217.7104(a), in
FAR clause 52.232-23 (APR 1984).

252.217-7108 Bonds.

As prescribed at 217.7104(a), in
the following clause:

BONDS (APR 1982)

(a) If the solicitation requires a bid
to be furnished, the Contractor may fu
in lieu thereof an annual bid bond, or
dence thereof, or an annual perform
and payment bond, or evidence there
bonds are not required by the solicita
the Government reserves the right a

discretion of the Contracting Officer to require a performance and payment bond, in form, amount, and with a surety acceptable to the Contracting Officer, and if said bond is in fact required, then the bid price shall be increased upon the award of a job order in an amount not to exceed the premium of a corporate surety bond; and the Contractor by submitting a bid warrants that the Contractor has not included in the price any contingency to cover the premium of said bond.

(b) If any surety upon any bond furnished in connection with a job order under this agreement becomes unacceptable to the Government, or if any such surety fails to furnish reports as to the financial condition of the surety from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the Government and of persons supplying labor or materials in the prosecution of the work contemplated by this agreement.

(End of clause)

252.217-7109 Federal, State, local, and foreign taxes.

As prescribed at 217.7104(a), insert FAR clause(s) 52.229-3, 52.229-4, 52.229-5, 52.229-6, and 52.229-7 (APR 1984) as applicable.

252.217-7110 Default.

As prescribed at 217.7104(a), insert the following clause:

DEFAULT (APR 1982)

(a) The Government may, subject to the provisions of paragraph (b) below, by written Notice of Default to the Contractor, terminate the whole or any part of a job order in any one of the following circumstances:

(i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified in a job order or any extension thereof; or

(ii) If the Contractor fails to perform any of the other provisions of this agreement or a job order issued hereunder, or so fails to make progress as to endanger performance of the job order in accordance with its terms.

(b) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if any failure to perform the job order arises from causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to perform the job order within the time specified therein. As used in this clause, the word "subcontractor" means subcontractor at any tier.

(c) In the event the Government terminates the job order in whole or in part as provided in paragraph (a) of this clause, the Government may, upon such terms and in such manner as the Contracting Officer may deem appropriate, arrange for the completion of the work so terminated, at such plant or plants, including that of the Contractor, as may be designated by the Contracting Officer; *Provided*, that the Contractor shall continue the performance of the job order to the extent not terminated under the provisions of this clause. If the work is to be completed at the plant, the Government may use all tools, machinery, facilities and equipment of the Contractor determined by the Contracting Officer to be necessary for that purpose. If the cost to the Government of the work procured or completed (after adjusting such cost to exclude the effect of changes in the plans and specifications made subsequent to the date of termination) exceeds the price fixed for work under the job order (after adjusting such price on account of changes in the plans and specifications made prior to the date of termination), the Contractor, or the Contractor's surety, if any, shall be liable for such excess.

(d) If a job order is terminated in whole or in part as provided in paragraph (a) of this clause, the Government, in addition to any other rights provided in this clause, may require the Contractor to transfer title and delivery to the Government, in the manner and to the extent directed by the Contracting Officer, (i) any completed supplies and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of the job order as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Government has an interest. The Government shall pay to the Contractor the job order price for completed items of work delivered to and accepted by the Government, and the amount agreed upon by the Contractor and the Contracting Officer for manufacturing materials delivered to and accepted by the Government, and for the protection and preservation of property. Failure to agree shall be a dispute concerning a question of fact within the meaning of clause 252.217-7111 entitled DISPUTES hereof.

(e) If, after notice of termination of the job order under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination has been issued pursuant to the clause 252.217-7120 hereof entitled TERMINATION FOR CONVENIENCE OF THE GOVERNMENT.

(f) If the Contractor fails to complete the performance of a job order within the time specified therein, or any extension thereof, the actual damage to the Government for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damage, the Contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay the amount, if any, set forth in the job order (prorated to the nearest hour for fractional days). Alternatively, the Government may terminate the job order in whole or in part as provided in paragraph (a) of this clause, and in that event the Contractor shall be liable, in addition to the excess costs provided in paragraph (c) above, for such liquidated damages accruing until such time as the Government may reasonably obtain completion of the work described in the job order. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Contractor, as defined in paragraph (b) above, and in such event, subject to the provisions of Clause 252.217-7111 entitled DISPUTES of this agreement, the Contracting Officer shall ascertain the facts and the extent of the delay and shall extend the time for performance when in the judgment of the Contracting Officer, the findings of fact justify an extension.

(g) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law under this agreement.

(End of clause)

252.217-7111 Disputes.

As prescribed at 217.7104(a), insert FAR clause 52.233-1 (APR 1984).

252.217-7112 Performance.

As prescribed at 217.7104(a), insert the following clause:

PERFORMANCE (APR 1982)

(a) Upon the issuance of a job order, the Contractor shall promptly commence the work specified therein and in any plans and specifications made a part thereof, and shall diligently prosecute the work to completion. The Contractor shall not commence work until the job order has been issued, except in the case of work ordered by the Contracting Officer as provided in paragraph (b) of clause 252.217-7103 entitled JOB ORDERS AND COMPENSATION hereof.

(b) The Government shall deliver the vessel described in the job order at such time and location as may be specified in the job order, and, upon completion of the work, the Government shall accept delivery of the vessel at such time and location as may be specified in the job order.

(c) The Contractor shall, without charge and without specific requirement thereof in a job order:

(i) Make available at the plant to personnel of the vessel while in drydock or on a marine railway, toilet and similar facilities acceptable to the Contracting Officer as adequate in number and sanitary standards. Supply and maintain, in such condition as the Contracting Officer may reasonably require, suitable brows and gangways from the pier, drydock or marine railway to the vessel;

(ii) Test salvage, scrap, or other ship's material of the Government resulting from performance of the work as items of Government-furnished property in accordance with the provisions of clause 252.217-7218 entitled GOVERNMENT PROPERTY.

(iii) Perform, or pay the cost of, any repair, reconditioning or replacement made necessary as the result of the use by the Contractor of any of the vessel's machinery, equipment or fittings, including, but not limited to, winches, pumps, rigging, or pipe lines; and

(iv) Furnish suitable offices, office equipment and telephones at or near the site of the work as the Contracting Officer reasonably requires for the Contracting Officer and staff of the Contracting Officer.

(d) Except as otherwise provided in the job order, the Contractor shall furnish all necessary material, labor, services, equipment, supplies, power, accessories, facilities and such other things and services as are necessary for accomplishing the work specified in the job order subject to the right reserved in the Government under clause 252.217-7218 entitled GOVERNMENT PROPERTY.

(e) Dock and sea trials of the vessel when required by the Government shall be specified in the job order. Unless otherwise expressly provided in the job order, during the conduct of such trials the vessel shall be under the control of the vessel's commander and crew with representatives of the Contractor and the Government on board to determine whether or not the work done by the Contractor has been satisfactorily performed. Dock and sea trials not specified by the job order which the Contractor requires for the Contractor's own benefit shall not be undertaken by the Contractor without prior notice to and approval of the Contracting Officer; any such dock trials shall be conducted at the expense of the Contractor, and any such sea trials shall be conducted at the risk and expense of the Contractor. The Contractor shall provide and install all fittings and appliances which may be necessary for the dock and sea trials, to enable the representatives of the Government to determine whether the requirements of the job order, plans, and specifications have been met, and the Contractor shall be responsible for the care, installation and removal of instruments and apparatus furnished by the Government for such trials.

(End of clause)

252.217-7113 Access to vessel.

As prescribed at 217.7104(a), insert the following clause:

ACCESS TO VESSEL (MAY 1983)

(a) A reasonable number of officers, employees, and associates of the Government, or other prime Contractors with the Government, and their subcontractors, shall, as authorized by the Supervisor, have at all reasonable times, admission to the plant, and access to vessel(s) to perform and fulfill their respective obligations to the Government on a noninterference basis. The Contractor shall make reasonable arrangements with the Government or Contractors of the Government, as shall have been identified and authorized by the Supervisor, to be given admission to the Contractor's facilities and access to the vessel(s) and to office space, work areas, storage or shop areas, or other facilities and services, necessary for the performance of their respective responsibilities and reasonable to their performance. All such above personnel shall be required to comply with all Contractor rules and regulations governing personnel at its shipyard, including those relative to safety and security.

(b) The Contractor further agrees as authorized by the Supervisor, to afford to a reasonable number of officers, employees, and associates of offerors on other contemplated work, the same privileges of admission to the Contractor's plant and access to the vessel(s) on a noninterference basis subject to all Contractor rules and regulations governing personnel in its shipyard, including those relative to safety and security.

(c) The vessel, its equipment, movable stores, cargo, or other ship's material shall not be considered Government-Furnished Property.

(End of clause)

252.217-7114 Certain Communist areas.

As prescribed at 217.7104(b), insert FAR clause 52.225-11 (APR 1984).

252.217-7115 Contract Work Hours and Safety Standards Act—overtime compensation.

As prescribed at 217.7104(b), insert FAR clause 52.222-4 (APR 1984).

252.217-7116 Walsh-Healey Public Contracts Act.

As prescribed at 217.7104(b), insert FAR clause 52.222-20 (APR 1984).

252.217-7117 Equal opportunity clause.

As prescribed at 217.7104(a), insert FAR clause 52.222-26 (APR 1984).

252.217-7118 Officials not to benefit.

As prescribed at 217.7104(a), insert FAR clause 52.203-1 (APR 1984).

252.217-7119 Covenant against contingent fees.

As prescribed at 217.7104(a), insert FAR clause 52.203-5 (APR 1984).

252.217-7120 Termination for convenience of the government.

As prescribed at 217.7104(a), insert FAR clause(s) 52.249-1 or 52.249-2 (APR 1984), as applicable.

252.217-7121 Authorization and consent.

As prescribed at 217.7104(a) insert FAR clause 52.227-1 (APR 1984).

252.217-7122 Notice and assistance regarding patent and copyright infringement.

As prescribed at 217.7104(a), insert FAR clause 52.227-2 (APR 1984).

252.217-7123 Responsibility for inspection.

As prescribed at 217.7104(a), insert FAR clause 52.246-1 (APR 1984).

252.217-7124 Liability and insurance.

As prescribed at 217.7104(a) insert the following clause:

LIABILITY AND INSURANCE (AUG 1983)

(a) The Contractor shall exercise reasonable care and use the Contractor's best efforts to prevent accidents, injury or damage to all employees, persons and property, in and about the work, and to the vessel or part thereof upon which work is done.

(b) The Contractor shall not, unless otherwise directed or approved in writing by the Department, carry or incur the expense of any insurance against any form of loss or damage to the vessels or to the materials or equipment therefor to which the Government has title or which have been furnished by the Government for installation by the Contractor. The Government assumes the risks of loss of and damage to the vessels and such materials and equipment. The Government does not assume any risk with respect to loss or damage compensated for by insurance or otherwise or resulting from risks with respect to which the Contractor has failed to procure or maintain insurance, if available, as required or approved by the Department; *Provided, further,* that under this clause the Government does not assume any risk with respect to, and will not pay for any costs of the Contractor for the inspection, repair, replacement, or renewal of any defects themselves in the vessel(s) or such materials and equipment due to (A) defective workmanship or defective materials or equipment performed by or furnished by the Contractor or its subcontractors; or (B) workmanship or materials or equipment performed by or furnished by the Contractor or its subcontractors which do(es) not conform to the requirements of the contract, whether or not any such defect is latent or whether or not any such nonconformance is the result of negligence; *Provided, further,* that under this clause the Government does not assume the risk of and will not pay for the costs of any loss, damage, liability or expense caused by, resulting from, or incurred as a consequence of delay or disruption of any type whatsoever; or willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers and any of its managers, superintendents or other equivalent representatives who have supervision or direction of (i) all or substantially all of the Contractor's business or (ii) all or substantially all of the Contractor's operation at any one plant; *Provided, however,* that as to such risk assumed and borne by the Government, the Government shall be subrogated to any claim, demand or cause of action against third persons which exists in favor of the Contractor, and the Contractor shall, if required, execute a formal assignment or transfer of claims, demands or causes of action; *Provided, further,* that nothing contained in this paragraph shall create or give rise to any right, privilege or power in any person except the Contractor, nor shall any person (except the Contractor) be or become entitled thereby to proceed directly against the Government, or join the Government as a codefendant in any action against the Contractor brought to determine the Contractor's liability or for any other purpose. Notwithstanding the foregoing the Contractor shall bear the first $5,000 of loss or damage from each occurrence or incident the risk of which the Government otherwise would have assumed under the provisions of this paragraph.

(c) The Contractor indemnifies and holds harmless the Government, its agencies and instrumentalities, the vessel and its owners, against all suits, actions, claims, costs or demands (including, without limitation, suits, actions, claims, costs or demands resulting from death, personal injury and property damage) to which the Government, its agencies and instrumentalities, the vessel or its owner may be subject or put by reason of damage or injury (including death) to the property or person of any one other than the Government, its agencies, instrumentalities and personnel, the vessel or its owner, arising or resulting in whole or in part from the fault, negligence, wrongful act or wrongful omission of the Contractor, or any subcontractor, the Contractor's or subcontractors' servants, agents or employees; *Provided,* that the Contractor's obligation to indemnify under this paragraph (c) shall not exceed the sum of $300,000 on account of any one accident or occurrence in respect of any one vessel. Such indemnity shall include, without limitation, suits, actions, claims, costs or demands of any kind whatsoever, resulting from death, personal injury or property damage occurring during the period of performance of work on the vessel or within *ninety (90)* days after redelivery of the vessel; and with respect to any such suits, actions, claims, costs, or demands resulting from death, personal injury or property damage occurring after the expiration of such period, the rights and liabilities of the Government and the Contractor shall be as determined by other provisions of this *agreement* and by law; *Provided*, however, that such indemnity shall apply to death occurring after such period which results from any personal injury received during the period covered by the Contractor's indemnity as provided herein.

(d) The Contractor shall, at its own expense, procure, and thereafter maintain such casualty, accident and liability insurance, in such forms and amounts as may be approved by the Government, insuring the performance of its obligations under paragraph (c) of this clause. Further, the Contractor shall procure and maintain in force Workers' Compensation Insurance (or its equivalent) covering its employees engaged on the work and shall insure the procurement and maintenance of such insurance by all subcontractors engaged on the work. The Contractor shall provide such evidence of such insurance as may be, from time to time, required by the Government.

(e) No allowance shall be made the Contractor in the job order price for the inclusion of any premium expense or charge for any reserve made on account of self-insurance for coverage against any risk assumed by the Government under this clause.

(f) As soon as practicable after the occurrence of any loss or damage the risk of which the Government has assumed, written notice of such loss or damage shall be given by the Contractor to the Contracting Officer, which notice shall contain full particulars of such loss or damage. If claim is made or suit is brought thereafter against the Contractor as the result or because of such event, the Contractor shall immediately deliver to the Government every demand, notice, summons or other process received by the Contractor or the Contractor's representatives. The Contractor shall cooperate with the Government and, upon the Government's request, shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits; and the Government shall pay to the Contractor the expense, other than the cost of maintaining the Contractor's usual organization, incurred in so doing. The Contractor shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense other than shall be imperative for the protection of the vessel or vessels at the time of said occurrence of such event.

(g) In the event of loss of or damage to any of the vessels or any of the materials or equipment therefor which may result in a claim against the Government under the insurance provisions of this contract, the Contractor promptly shall notify the Contracting Officer of such loss or damages, and the Contracting Officer may, without prejudice to any other right of the Government, either:

(i) Order the Contractor to proceed with replacement or repair, in which event the Contractor shall effect such replacement or repair. The Contractor shall submit to the Contracting Officer a request for reimbursement of the cost of such replacement or repair together with such supporting documentation as the Contracting Officer may reasonably require, and shall identify such request as being submitted under the "Insurance" Clause of the contract. If the Government determines that the risk of such loss or damages is within the scope of the risks assumed by the Government under this clause, the Government will reimburse the Contractor for the reasonable, allowable cost of such replacement or repair, plus a reasonable profit (if the work of replacement or repair was performed by the Contractor) less the deductible amount specified in paragraph (b) of this clause. Payments by the Government to the Contractor under this Insurance Clause are outside the scope of and shall not affect the pricing structure of the contract (firm fixed price or incentive type arrangement, as applicable), and are additional to the compensation otherwise payable to the Contractor under this contract; or

(ii) In the event the Contracting Officer decides that the loss or damage shall not be replaced or repaired,

(A) Modify the contract appropriately consistent with the reduced requirements reflected by the unreplaced or unrepaired loss or damage, or

(B) Terminate the repair of any part or all of the vessel(s) under the clause of this contract entitled "TERMINATION FOR CONVENIENCE OF THE GOVERNMENT".

(End of clause)

252.217-7125 Pricing of adjustments.

As prescribed at 217.7104(a), insert the clause at 252.243-7001 (APR 1984).

252.217-7126 Affirmative action for disabled veterans and veterans of the Vietnam era.

As prescribed at 217.7104(b), insert FAR clause 52.222-35 (APR 1984).

252.217-7127 Affirmative action for handicapped workers.

As prescribed at 217.7104(b), insert FAR clause 52.222-36 (APR 1984).

252.217-7128 Clean air and water.

As prescribed at 217.7104(a), insert FAR clause 52.223-2 (APR 1984).

252.217-7129 [Reserved]

252.217-7130 Guarantees.

As prescribed at 217.7104(a), insert the following clause:

GUARANTEES (APR 1982)

In case any work done or materials furnished by the Contractor under this agreement on or for any vessel or the equipment thereof, shall within ninety (90) days from the date of redelivery of the vessel by the Contractor, prove defective or deficient, such defects or deficiencies shall, as required by the Government in writing, be corrected and repaired by the Contractor or at the Contractor's expense to the satisfaction of the Contracting Officer *Provided* that for any guarantee secured by the Contractor or any subcontractor covering work done on materials furnished which exceeds the 90 day period, the Government shall be entitled to rely upon said guarantee until the expiration and *Provided* further that with respect to any individual work item identified and listed as incomplete at the redelivery of the vessel the guarantee period shall run from the date of completion of such item. The Government shall, if and when practicable, afford the Contractor an opportunity to effect such corrections and repairs himself, but when, because of the condition or the location of the vessel or for any other reason, it is impracticable or undesirable to return it to the Contractor, or the Contractor fails to proceed promptly with any such repairs as directed by the Contracting Officer, such corrections and repairs shall be effected at the Contractor's expense at such other locations as the Government may determine. Where correction and repairs are to be effected by other than the Contractor, due to nonreturn of the vessel to him, the Contractor's liability may be discharged by an equitable deduction in the price of the job. The Contractor's liability shall only extend for an additional 90-day guarantee period on those defects or deficiencies which the Contractor corrected and in no event to those for which payment was made; *Provided*, however, that nothing in this clause shall be deemed to limit the responsibility of the Contractor under clause 252.217-7124 entitled "LIABILITY AND INSURANCE" hereof or relieve the Contractor of its liability under that clause. At the option of the Contracting Officer, defects and deficiencies may be left in their then condition, and an equitable deduction from the job order price, as agreed by the Contractor and the Contracting Officer, shall be made therefor. If the Contractor and the Contracting Officer fail to agree upon the equitable deduction from the job order price to be made, the dispute shall be determined as provided in Clause 252.217 7111 entitled "DISPUTES" hereof.

(End of clause)

252.217-7131 Discharge of liens.

As prescribed at 217.7104(a), inser the following clause:

DISCHARGE OF LIENS (APR 1982)

The Contractor shall immediately dis charge or cause to be discharged any lien o right *in rem* of any kind, other than i favor of the Government, which at any tim exists or arises in connection with wor done or materials furnished under any jo order hereunder with respect to the ma chinery, fittings, equipment or materials fo any of the vessels. If any such lien or righ *in rem* is not immediately discharged, th Government may discharge or cause to b discharged such lien or right at the expens of the Contractor.

(End of clause)

252.217-7132 Department of Labor safet and health regulations for ship repair ing.

As prescribed at 217.7104(a), inser the following clause:

DEPARTMENT OF LABOR SAFETY ANI HEALTH REGULATIONS FOR SHII REPAIRING (APR 1982)

Attention of the Contractor is directed t the Occupational Safety and Health Act o 1970 (29 U.S.C. 651-678), and to the Safet and Health Regulations for Ship Repairin (29 CFR 1915), promulgated under Pub. L 85-742, amending section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), and adopted by the Department of Labor as occupational safety or health standards under section 6(a) of the Occupational Safety and Health Act of 1970 (see 29 CFR 1910.13). These regulations apply to all ship repair and related work, as defined in the regulations, performed under this agreement on the navigable waters of the United States including any drydock or marine railway. Nothing contained in this agreement or any job order hereunder shall be construed as relieving the Contractor from any obligations which it may have for compliance with the aforesaid regulations.

(End of clause)

252.217-7200 Workers' compensation and war hazard insurance overseas.

As prescribed at 217.7104(b), insert FAR clause 52.228-4 (APR 1984), as applicable.

252.217-7201 Buy American Act and the balance of payments program.

As prescribed at 217.7104(b), insert the clause at 252.225-7001 (OCT 1980), as applicable.

252.217-7202 Notice to the Government of labor disputes.

As prescribed at 217.7104(b), insert FAR clause 52.222-1 (APR 1984), as applicable.

252.217-7203 Patent indemnity.

As prescribed at 217.7104(b), insert FAR clause 52.227-3 (APR 1984), as applicable.

252.217-7204 Filing of patent applications.

As prescribed at 217.7104(b), insert FAR clause 52.227-10 (APR 1984), as applicable.

252.217-7205 Contract schedule subline items not separately priced.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.204-7000 (APR 1984), as applicable.

252.217-7206 Reporting and refund of royalties.

As prescribed at 217.7104(b), insert FAR clauses 52.227-8 and 52.227-9 (APR 1984), as applicable.

252.217-7207 Rights in technical data and computer software.

As prescribed at 217.7104(b), insert clause 252.227-7013 (MAY 1981), as applicable.

252.217-7208 Military security requirements.

As prescribed at 217.7104(b) insert FAR clause 52.204-2 (APR 1984), as applicable.

252.217-7209 Utilization of small business and small disadvantaged business concerns.

As prescribed at 217.7104(b) insert FAR clause(s) 52.219-8, 52.219-9, and 52.219-10 (APR 1984), as applicable.

252.217-7210 Examination of records by Comptroller General.

As prescribed at 217.7104(b), insert FAR clause 52.215-1 (APR 1984), as applicable.

252.217-7211 Gratuities.

As prescribed at 217.7104(b), insert FAR clause 52.203-3 (APR 1984), as applicable.

252.217-7212 Convict labor.

As prescribed at 217.7104(b), insert FAR clause 52.222-3 (APR 1984), as applicable.

252.217-7213 Priorities and allocations.

As prescribed at 217.7104(b), insert FAR clause 52.212-8 (APR 1984), as applicable.

252.217-7214 Utilization of labor surplus area concerns.

As prescribed at 217.7104(b), insert FAR clause(s) 52.220-3 and 52.220-4 (APR 1984), as applicable.

252.217-7215 Limitation on withholding of payments.

As prescribed at 217.7104(b), insert FAR clause 52.232-9 (APR 1984), as applicable.

252.217-7216 Equal opportunity preaward clearance of subcontracts.

As prescribed at 217.7104(b), insert FAR clause 52.222-28 (APR 1984), as applicable.

252.217-7217 Subcontracts.

As prescribed at 217.7104(b), insert FAR clause 52.244-1 (APR 1984), as applicable.

252.217-7218 Government property.

As prescribed at 217.7104(b), insert FAR clause 52.245-2 (APR 1984), as applicable.

252.217-7219 Federal, state, local, and foreign taxes.

As prescribed at 217.7104(b), insert FAR clause 52.229-2 (APR 1984), as applicable.

252.217-7220 [Reserved]

252.217-7221 Price reduction for defective cost or pricing data.

As prescribed at 217.7104(b), insert FAR clause 52.214-27 or 52.215-22 (APR 1984), as applicable.

252.217-7222 Duty-free entry.

As prescribed at 217.7104(b), insert FAR clause 52.225-10 (APR 1984), as applicable.

252.217-7223 Duty-free entry of qualifying country supplies.

As prescribed at 217.7104(b), insert clause 52.225-7008 (JAN 1981), as applicable.

252.217-7224 Inspection system.

As prescribed at 217.7104(b), insert FAR clause 52.246-11 (APR 1984), as applicable.

252.217-7225 Advance payments.

As prescribed at 217.7104(b), insert FAR clause 52.232-12 (APR 1984), as applicable.

252.217-7226 Required sources for jewel bearings and related items.

As prescribed at 217.7104(b), insert FAR clause 52.208-1 (APR 1984), as applicable.

252.217-7227 Required sources for miniature and instrument ball bearings.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.208-7000 (JUL 1971), as applicable.

252.217-7228 Interest.

As prescribed at 217.7104(b), insert FAR clause 52.232-17 (APR 1984), as applicable.

252.217-7230 Audit by Department of Defense.

As prescribed at 217.7104(b), insert FAR clause(s) 52.214-26 or 52.215-2 (APR 1984), as applicable.

252.217-7231 Subcontractor cost or pricing data.

As prescribed at 217.7104(b), insert FAR clause 52.215-25 (APR 1984), as applicable.

252.217-7232 Value engineering.

As prescribed at 217.7104(b), insert FAR clause 52.248-1 (APR 1984), as applicable.

252.217-7233 [Reserved]

252.217-7234 Required sources for precision components for mechanical time devices.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.208-7001 (AUG 1971), as applicable.

252.217-7235 New material.

As prescribed at 217.7104(b), insert FAR clause 52.210-5 (APR 1984), as applicable.

252.217-7236 Government surplus.

As prescribed at 217.7104(b), insert FAR clause 52.210-6 or 52.210-7 (APR 1984), as applicable.

252.217-7237 Utilization of women-owned business concerns.

As prescribed at 217.7104(b), insert FAR clause 52.219-13 (APR 1984), as applicable.

252.217-7238 Material inspection and receiving report.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 52.246-7000 (DEC 1969), as applicable.

252.217-7239 Protection of Government buildings, equipment, and vegetation.

As prescribed at 217.7104(b), insert FAR clause 52.237-2 (APR 1984), as applicable.

252.217-7240 Government delay of work.

As prescribed at 217.7104(b), insert FAR clause 52.212-15 (APR 1984), as applicable.

252.217-7241 Distribution of defense subcontracts placed overseas.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.204-7005 (JUN 1982), as applicable.

252.217-7242 Safety precautions for ammunition and explosives.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.223-7001 (JUL 1986) and 52.223-7002 (JUL 1986), as applicable.

252.217-7243 Cost accounting standards.

As prescribed at 217.7104(b), insert FAR clause(s) 52.230-3 and 52.230-4 (APR 1984), as applicable.

252.217-7244 Notification of changes.

As prescribed at 217.7104(b), insert FAR clause 52.243-7 (APR 1984), as applicable.

252.217-7245 Engineering change proposals (ECP's).

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.243-7000 (APR 1984), as applicable.

252.217-7246 Change order accounting.

As prescribed at 217.7104(b), insert FAR clause 52.243-6 (APR 1984), as applicable.

252.217-7247 Contracts conditioned upon the availability of funds.

As prescribed at 217.7104(b), insert FAR clause(s) 52.232-18 or 52.232-19 (APR 1984), as applicable.

252.217-7248 Preference for domestic specialty metals.

As prescribed at 217.7104(b), insert the clause at 252.225-7012 (OCT 1980), as applicable.

252.217-7249 Preference for United States-flag air carriers.

As prescribed at 217.7104(b), insert FAR clause 52.247-63 (APR 1984), as applicable.

252.217-7250 Exclusionary policies and practices of foreign governments.

As prescribed at 217.7104(b), insert the clause at 52.225-7019 (JAN 1977).

252.217-7251 Hazardous material identification and material safety data.

As prescribed at 217.7104(b), insert FAR clause 52.223-3 (APR 1984), as applicable.

252.217-7252 Certification of requests for adjustment or relief exceeding $100,000.

As prescribed at 217.7104(b), insert DoD FAR Supplement clause 252.233-7000 (FEB 1980), as applicable.

252.217-7253 Qualifying country sources as subcontractors.

As prescribed at 217.7104(b), insert clause 252.225-7002 (OCT 1980).

252.217-7254 Stop work orders.

As prescribed at 217.7104(b), insert FAR clause 52.212-13 (APR 1984), as applicable.

252.217-7255 Subcontractor cost or pricing data—modifications—sealed bidding.

As prescribed at 217.7104(b), insert FAR clause 52.214-28 (APR 1985).

252.217-7256 Subcontractor cost or pricing data.

As prescribed at 217.7104(b), insert FAR clause 52.215-24 (APR 1985).

252.217-7257 Notice of total small business set-aside.

As prescribed at 217.7104(b), insert FAR clause 52.219-6 (APR 1984).

252.217-7258 Preference for labor surplus area concerns.

As prescribed at 217.7104(b), insert FAR clause 52.220-1 (APR 1984).

252.217-7259 Bid guarantee.

As prescribed at 217.7104(b), insert FAR clause 52.228-1 (APR 1984).

252.217-7260 Production progress reports.

As prescribed at 217.7104(b), insert FAR clause 52.242-2 (APR 1984).

252.217-7261 Government-furnished property (short form).

As prescribed at 217.7104(b), insert FAR clause 52.245-4 (APR 1984).

252.217-7262 Clauses incorporated by reference.

As prescribed at 217.7104(b), insert FAR clause 52.252-2 (APR 1984).

252.217-7263 Aggregate pricing adjustment.

As prescribed at 217.7104(b), insert the clause at 252.215-7000 (APR 1985).

252.217-7264 Small business and small disadvantaged business subcontracting plan (DoD contracts).

As prescribed at 217.7104(b), insert the clause at 252.219-7000 (JUN 1988).

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38248, Sept. 29, 1988]

252.217-7265 Restrictive markings on technical data.

As prescribed at 217.7104(b), insert the clause at 252.227-7018 (MAR 1975).

252.217-7266 Identification of technical data.

As prescribed at 217.7104(b), insert the clause at 252.227-7029 (MAR 1975).

252.217-7267 Data requirements.

As prescribed at 217.7104(b), insert the clause at 252.227-7031 (APR 1972).

252.217-7268 Certain Communist areas.

As prescribed at 217.7104(b), insert FAR clause 52.225-11 (APR 1984).

252.217-7269 Plant protection.

As prescribed at 217.7104(b), insert the following clause, as applicable.

PLANT PROTECTION (AUG 1985)

(a) The Contractor shall provide for its plant and the work in process under this contract such safeguards, including personnel, devices and equipment, as would constitute reasonable protection under peacetime conditions (in the light of the size of the plant and the scope of its operations) under all hazards, including unauthorized entry, malicious mischief, theft, vandalism and fire.

(b) In addition to the foregoing precautions, the Contractor shall provide such additional safeguards as may be required or approved by the Contracting Officer for the protection of its plant and the work in process under this contract against espionage, sabotage, and enemy action. The cost to the Contractor of all safeguards so required or approved shall, to the extent allocable to this contract, be reimbursed to the Contractor in the same manner as if the Contractor had furnished such safeguards pursuant to a change order issued under the clause of this contract entitled "CHANGES". Such cost shall not include any allowance on account of overhead expense, except shop overhead charges incident to the construction or installation of such devices or equipment.

(c) Upon payment by the Government of the cost to the Contractor of any device or equipment required or approved under paragraph (b) of this clause, title thereto shall vest in the Government, and the Contractor shall comply with the instructions of the Department respecting the identification and disposition thereof. No part or item of any such devices or equipment shall be or become a fixture by reason of affixation to any realty not owned by the Government.

(End of clause)

252.217-7270 Identification of sources of supply.

As prescribed in 217.7204(c), insert the following clause:

IDENTIFICATION OF SOURCES OF SUPPLY (FEB 87)

(a) The Contractor shall provide to the Contracting Officer with respect to each line item for supplies the following information: the corresponding national stock number (NSN) (if any), the item nomenclature, the name and address of the actual manufacturer, producer or each source of supply of the Contractor for the item and the identification number assigned by the actual manufacturer, producer or each source of supply. With respect to each line item for technical data, the Contractor shall identify, by appropriate line item number, the name and address of each source of the data. The list shall be provided at the time and in the quantities specified elsewhere in the contract.

(b) The requirements of paragraph (a) do not apply to any items that are commercial items sold in substantial quantities to the general public if—

(1) The items are priced using established catalog or market prices; or

(2) The items are acquired through the use of full and open competition.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 52 FR 34789, Sept. 15, 1987]

252.217-7300 Delivery vehicles.

As prescribed at 217.7301-5(a)(1), insert the following clause:

DELIVERY VEHICLES (APR 1967)

The supplies delivered under this contract shall be transported in clean, closed vehicles. The vehicles shall be maintained in a sanitary condition to prevent contamination of the supplies and shall be equipped to maintain any temperature requirement prescribed in the specification or elsewhere in this contract. The vehicles shall be subject to inspection by the Government at all reasonable times and at all places, including the plant of the Contractor. Supplies tendered for acceptance in vehicles which are not sanitary, or which are not equipped to maintain any prescribed temperatures, may be rejected without further inspection.

(End of clause)

252.217-7301 Time of delivery.

As prescribed at 217.7301-5(a)(2), insert the following clause:

TIME OF DELIVERY (APR 1967)

Individual written delivery orders issued or oral delivery orders placed under this contract shall specify the locations to which deliveries shall be made and the quantities for each location. Deliveries will be completed within the hours prescribed in the Schedule of this contract and on the days specified by the order. Orders which call for delivery within less than twenty-four (24) hours from the time the Contractor receives said orders shall be governed by paragraph (e) of the clause entitled "Requirements."

(End of clause)

ALTERNATE I

If an indefinite quantity contract is used, rather than a requirements contract, the following shall be substituted for the last sentence of the basic clause:

The Contractor shall not be required to deliver within less than _____ hours from the time the Contractor receives a delivery order.

252.217-7302 Change in plant location.

As prescribed at 217.7301-5(a)(3), insert the following clause:

CHANGE IN PLANT LOCATION (APR 1967)

The performance of any work under this contract at any place other than that named in this contract is prohibited unless specific written advance approval is obtained from the Contracting Officer.

(End of clause)

252.217-7303 Sanitary conditions.

As prescribed at 217.7301-5(a)(4), insert the following clause:

SANITARY CONDITIONS (APR 1967)

(a) All plant facilities, machinery, equipment, and apparatus used in the production, processing, handling, storage, or delivery of supplies under this contract, and all supplies (as the term "supplies" is defined in paragraph (a) of the clause entitled "Inspection of Supplies—Fixed Price") delivered under this contract, shall meet the sanitary standards, including bacteriological requirements, prescribed by the specifications cited elsewhere in this contract.

(b) All plant facilities, machinery, equipment, and apparatus used in the production, processing, handling, storage, or delivery of supplies under this contract shall be subject to inspection and test by the Government at all places and at all reasonable times.

(c) The Government shall notify the Contractor in writing of any failure to meet the sanitary standards, including bacteriological requirements, prescribed by this contract. If such failure has not been corrected within three (3) days from the date the Contractor receives said notice, the whole or any part of this contract may be terminated for default or, at the option of the Contracting Officer, the Contractor's right to perform under this contract may be partially or wholly suspended for not less than ten (10) days, and for such longer period of time as the Contracting Officer deems appropriate to permit correction of such failure. A suspension shall not operate to extend the life of this contract and shall not be considered sufficient cause for the extension of any delivery time. During the period of any such suspension, the Government may procure from other sources, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies similar to those specified in the Schedule, and the Contractor shall be liable to the Government for any excess costs for such similar supplies. If the Contractor does not correct the failure to meet the sanitary standards, including bacteriological requirements, within any suspension period specified by the Contracting Officer, the Government may terminate the unexpired portion of this contract for default without allowing additional time for correction, notwithstanding paragraph (a)(2) of the clause entitled "Default (Fixed Price Supply and Service)."

(End of clause)

ALTERNATE I

If an indefinite quantity contract is used, rather than a requirements contract, the following shall be inserted in paragraph (c) of the basic clause after the third sentence:

The quantity of supplies designated in the Schedule as "Minimum" shall be reduced, in the event of a suspension, by an amount proportionate to the ratio between the number of days the Contractor's right to perform is suspended and the number of days in the contract period. The quantity of supplies designated as "Maximum" shall not be reduced.

252.217-7304 Remedies under delivery orders.

As prescribed at 217.7301-5(a)(5), insert the following clause:

REMEDIES UNDER DELIVERY ORDERS (APR 1967)

All rights and remedies afforded to the Government under the provisions of this contract may be exercised and enforced by the Government with respect to each written or oral delivery order placed under this contract.

(End of clause)

ALTERNATE I

If delivery orders are to be placed by an activity other than the activity which awarded the contract, the following may be added to the basic clause to establish authority in the ordering officer under the Changes, Extras, Inspection, Default (Fixed Price Supply and Service), and Disputes clauses for the administration of individual delivery orders:

For the purpose of the exercise of the Government's rights and remedies under one or more individual delivery orders, the term "Contracting Officer" as used in the "Changes," "Extras," "Inspection of Supplies—Fixed Price," "Default (Fixed Price Supply and Service)," and "Disputes" clauses, shall include the person executing or placing said order or orders.

252.217-7305 Examination and testing.

As prescribed at 217.7301-5(b)(1), insert the following clause:

EXAMINATION AND TESTING (AUG 1985)

(a) The Government examination and testing of dairy products shall be in accordance with DLAM 8200.1, Appendix A—Procurement Quality Assurance for Fresh Dairy Products." The Contractor agrees that a lot consists of a day's production of the type of product delivered or intended to be delivered. Whether sampling is conducted at origin or at destination, the Contractor agrees that the results of the tests performed using the samples selected in accordance with DLAM 8200.1, Appendix A, will apply to the entire contract quantity of each type product delivered on the date specified at the time of sampling and that the results will be used in determining the weighted average of butterfat, milk solids non-fat, and total solids for the monthly period.

(b) The Government reserves the right to test all products to be delivered under the contract. Samples selected by the Government at origin shall be furnished at the expense of the Contractor and shall be considered to be representative of all the products delivered to the Government from the lot sampled. The Contractor shall certify the quantity of all products delivered from lots sampled at origin. Samples selected by the Government at destination shall be furnished at the expense of the Government and shall be considered to be representative of all of that type of product delivered to the Government on the date sampled.

(c) When samples are selected from containers of ½ gallon size or smaller, the entire content of the container shall constitute the sample; when samples are selected from containers larger than ½ gallon, a ½ pint sample shall be withdrawn for laboratory analysis.

(d) When the butterfat, milk solids non-fat or total solids of any type of product as determined by chemical analysis is less than required by this contract, the Contractor shall reimburse the Government for the deficiency in the amount determined pursuant to the clause entitled "Deficiency Adjustment." For this purpose the butterfat, milk solids non-fat, and total solids content of the entire quantity of each type of product delivered during a monthly period shall be deemed to be the weighted average of the results of the tests of all samples thereof selected during said period. If the butterfat, milk solids non-fat, or total solids content of any type of product in any monthly period, as determined by a chemical analysis of at least two (2) samples, is less than required by this contract, the Contractor shall reimburse the Government for the deficiency in an amount determined pursuant to the clause entitled "Deficiency Adjustment." Deficiencies so computed, totaling $25 or less during a monthly accounting period will not be assessed. Monthly periods commence on the first (1st) day of the contract period and on the same day of each succeeding calendar month thereafter. The butterfat, milk solids non-fat, and total solids content of one type of product will not be averaged with or offset against the content of another type of product, and the content of products delivered in any one monthly period will not be averaged with or offset against the content of products delivered in any other monthly period. No payment will be made for butterfat, milk solids non-fat, and total solids content in excess of the amount required by this contract.

(End of clause)

252.217-7306 Deficiency adjustment.

As prescribed at 217.7301-5(b)(2), insert the following clause:

DEFICIENCY ADJUSTMENT (DEC 1969)

(a) The amount to be paid by the Contractor to the Government as consideration for the acceptance of supplies deficient in butterfat, milk solids non-fat, or total solids, pursuant to the clause entitled "Examination and Testing," shall be determined in accordance with the following formulas:

(1) *Butterfat:* Subtract the total pounds of butterfat delivered from the total pounds of butterfat required to be delivered, and multiply the remainder by the butterfat value.

(2) *Milk Solids Non-Fat.* Subtract the total pounds of milk solids non-fat delivered from the total pounds of milk solids non-fat required to be delivered, and multiply the remainder by the milk solids non-fat value.

(3) *Total Solids.* To the total solids add any shortages for butterfat, milk solids non-fat, previously price adjusted and subtract from the total solids required to be delivered. Multiply the remainder by the milk solids non-fat value.

(b) The term "butterfat value" shall mean the average Chicago top "Wholesale Selling Price" of Grade A, 92 score butter during the monthly period for which the deficiency is computed, as reported in the Weekly Dairy Comments, Dairy and Poultry Market News, published by the Department of Agriculture, Consumer and Marketing Service, Chicago, Illinois, multiplied by 1.30. The term "milk solids non-fat value" shall mean the average Chicago top price for "Commercial Sales, Extra Grade, Nonfat Dry Milk, Spray (bags)" during the monthly period for which the deficiency is computed, as reported in the aforementioned Weekly Dairy Comments, multiplied by 1.45.

(c) The Contractor shall certify the tare weights of all containers on the shipping documents, and furnish a copy thereof to the Government inspector(s) at destination(s). The tare weight of dispenser containers shall include all parts of the container delivered as a unit, including lids, tubes, and seals. If different types of containers with different tares are included in a single delivery, the Contractor shall furnish the tare weight and identifying characteristics of each type of container. Volume and net weight shortages of any line item, revealed by inspecting a representative sample of said line item, shall be adjusted for payment by the receiving installation for the entire quantity of the line item delivered on the day the shortage is discovered. For the purpose of determining net weight, the following will apply:

(1) The weight factor of 8.8 pounds per gallon will be used for chocolate flavored milk and chocolate flavored drink.

(2) The weight factor of 8.6 pounds per gallon will be used for milk whole fresh, buttermilk fluid, milk whole fresh cultured, and milk skim fresh.

(3) The weight factor of 8.5 pounds per gallon will be used for fresh cream eighteen percent (18%) butterfat or less, half-and-half fresh, and cream sour cultured.

(4) The weight factor of 8.4 pounds per gallon will be used for all creams with a butterfat percentage of more than eighteen percent (18%).

(5) Other items such as cottage cheese, butter and so forth, shall be weighed in accordance with the weight stated on the container.

(6) For ice cream and frozen desserts, weight shall be determined based on applicable commodity specification.

(d) The foregoing is an agreed method for the adjustment of prices of noncomplying products, and is without prejudice to the Government's right to terminate for default or to pursue any other remedy under this contract or as provided by law.

(End of clause)

252.217-7307 Warning.

As prescribed at 217.7301-5(b)(3), insert the following clause:

WARNING (DEC 1969)

The Government shall notify the Contractor orally or in writing of any failure to meet sanitary standards, or when two of the last four consecutive lots tested are nonconforming for the same specification requirement. Oral notifications will be confirmed in writing. When this notice is based on product nonconformance, it shall be in effect so long as two of the last four consecutive lots tested exceed the same limit of the specification. An additional sample shall be taken within fourteen (14) days of such notice, but not before three (3) days have elapsed.

(End of clause)

252.217-7308 Suspension.

As prescribed at 217.7301-5(b)(4), insert the following clause:

SUSPENSION (DEC 1969)

The Contractor's right to perform may be suspended when three out of the last five consecutive lots tested are nonconforming for the same specification requirement. This suspension shall not operate to extend the life of this contract and shall not be considered sufficient cause for the extension of any delivery time. During the period of any such suspension, the Government may procure from other sources, upon such terms and in such a manner as the Contracting Officer may deem appropriate, supplies similar to those specified in the Schedule, and the Contractor shall be liable to the Government for any excess costs for such similar supplies. It is the responsibility of the Contractor to use the period of suspension to effect corrections of deficiencies and to notify the Government when such corrections are completed. Concurrently with initial notification, or any time after notification, but prior to correction of deficiencies and notification to the Government thereof, the Contractor's right to perform under this contract may be partially or wholly suspended immediately if such failure results in the production of a product which is considered to be a health hazard. Any suspension shall not exceed ten (10) days.

(End of clause)

ALTERNATE I

If an indefinite quantity contract is used, rather than a requirements contract, the following shall be added to the basic clause:

The quantity of supplies designated in the Schedule as "Minimum" shall be reduced, in the event of a suspension, by an amount proportionate to the ratio between the number of days the Contractor's right to perform is suspended and the number of days in the contract period. The quantity of supplies designated as "Maximum" shall not be reduced.

252.217-7309 Default.

As prescribed at 217.7301-5(b)(5), insert the following clause:

DEFAULT (DEC 1969)

If the Contractor does not correct the deficiencies within this period of suspension, the Contracting Officer may terminate the unexpired portion of this contract for default without allowing additional time for correction; notwithstanding subparagraph (a)(2) of the clause entitled "Default (Fixed Price Supply and Service)."

(End of clause)

252.217-7310 Reinstatement.

As prescribed at 217.7301-5(b)(
insert the following clause:

REINSTATEMENT (DEC 1969)

When the Contractor's right to perfo
has been suspended for product nonconf
mances, this right may be reinstated o
after the Contractor certifies, in writi
that corrective action has been taken, a
the Government nas verified that the C
tractor has taken corrective action to its s
isfaction and has so notified the Contrac
in writing.

(End of clause)

252.217-7311 Code dating.

As prescribed at 217.7301-5(c), ins
the following clause:

CODE DATING (APR 1967)

A code may be used to comply with the
quirement set forth in the Schedule or sp
ifications of this contract for showing a d
on the labels of items delivered hereund
provided that, prior to the use of a code
written explanation thereof is furnished
the Contracting Officer and approved
the Contracting Officer in writing.
changes in the code symbols, code system
explanation thereof, shall be made with
the advance written approval of the C
tracting Officer.

(End of clause)

252.217-7312 Marking.

As prescribed at 217.7301-5(d), ins
the following clause:

MARKING (APR 1967)

Notwithstanding any specification ref
ences to MIL-STD-129, commercial ma
ings are acceptable.

(End of clause)

252.217-7313 Responsibility for contain and equipment.

As prescribed at 217.7301-5(e), ins
the following clause:

RESPONSIBILITY FOR CONTAINER
AND EQUIPMEMT (APR 1967)

The Contractor shall maintain all re
able containers and equipment in a sanit
condition and in a good state of repair a
working order. At the time of each delive
the Contractor shall remove from the pre
ises of the Government all empty reus

containers, unless the Contracting Officer grants permission in writing for less frequent removal. The Government shall not be liable for any damage to, or loss or destruction of, containers and equipment furnished by the Contractor.

(End of clause)

252.217-7314 Containers and equipment.

As prescribed at 217.7301-5(f), insert the following clause:

CONTAINERS AND EQUIPMENT (APR 1967)

(a) Dispenser containers and filling equipment used by the Contractor in the performance of this contract, and any refrigerated bulk milk dispenser cabinets furnished by the Contractor, shall comply with MIL-STD-175, "Minimum Sanitary Standards for the Equipment and Methods for Handling of Milk and Milk Products in Bulk Milk Dispensing Operations," as amended.

(b) Any bulk milk dispenser cabinets required by the Schedule to be furnished by the Contractor shall be installed, serviced, and maintained to the satisfaction of the Contracting Officer. All responsibility for the supply, installation, maintenance, and removal thereof, including labor and material costs, and for any damage thereto or loss or destruction, shall remain with the Contractor.

(c) When, and for as long as, the Contractor fails to furnish bulk milk dispenser cabinets or milk dispenser containers as required in the Schedule, or does not properly service, maintain, and repair said dispenser cabinets, so that milk cannot be dispensed as needed by the Government, the Contractor shall deliver a sufficient quantity of milk in half-pint containers to satisfy orders for milk dispenser containers, at the price per gallon for milk dispenser containers.

(d) Any contamination, spoilage, leakage, or other loss of any contents of a dispenser container due to functional failure of the dispenser cabinets or dispenser containers, except for a general power failure at the Government installation, shall be replaced immediately by the Contractor without cost to the Government.

(e) The tare weight of dispenser containers required to be certified in accordance with paragraph (b) of the clause entitled "Examination and Testing" shall include all parts of the container delivered as a complete unit, including lids, tubes, and seals.

(End of clause)

252.219-7000 Small business and small disadvantaged business subcontracting plan (DoD contracts).

As prescribed at 219.708(b), insert the following clause:

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (JUL 1990)

(a) Except for plans submitted under paragraph (g) of the clause of this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan", FAR 52.219-9, whenever the term "small disadvantaged business" is used in that FAR clause, such term shall be deemed to include (in addition to small disadvantaged business concerns), Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) as those terms are defined at DoD FAR Supplement 226.7002. A list of qualifying HBCUs is published periodically by the U.S. Department of Education, and is available from the Contracting Officer.

(b) In addition, master plans referred to in FAR 52.219-9 must be approved by the Government's cognizant Contract Administration Office.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the clause of this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan" when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of section 832 of the FY 90 DoD Authorization Act, Pub. L. 101-189.

(End of clause)

[53 FR 5128, Feb. 19, 1988, as amended at 53 FR 20630, June 6, 1988; 55 FR 30159, July 24, 1990]

252.219-7001 Notice of combined small business-labor surplus area set-aside.

As prescribed at 219.502-70(d)(1), insert the following clause:

NOTICE OF COMBINED SMALL BUSINESS-LABOR SURPLUS AREA SET-ASIDE (APR 1985)

(a) *General.*

(1) Offers under this acquisition are solicited from small business concerns only and the acquisition is to be awarded only to one or more small business concerns. This action is based on a determination by the Con-

tracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, in the interest of war or national defense programs, or in the interest of assuring that a fair proportion of Government acquisition is placed with small business concerns. Offers received from firms which are not small business concerns shall be considered nonresponsive and shall be rejected.

(2) Part of this acquisition identified in the solicitation as the "labor surplus area (LSA) set-aside portion," has been further set aside for award only to one or more LSA concerns, which are also small business concerns, and, to a limited extent, to small business concerns which do not qualify as LSA concerns. Award of the LSA set-aside portion will be made after awards have been made on the non-LSA set-aside portion.

(b) *Definitions.*

(1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is making an offer on Government contracts, and can further qualify under the criteria set forth in the regulations of the Small Business Administration (CFR Title 13, Section 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting offers in its own name must agree to furnish in the performance of the contract, end items manufactured or produced by small business concerns; *provided*, that this additional requirement does not apply in connection with construction or service contracts.

(2) *Labor Surplus Area.* The term "labor surplus area" means a geographic area which at the time of award is classified as such by the Secretary of Labor in the Department of Labor "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy 4 and Executive Order 10582."

(3) *Labor Surplus Area Concerns.* The term "labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in labor surplus areas amount to more than 50% of the contract price.

(c) *Procedures.*

(1) *Determining Eligibility:*

(i) To be eligible to participate in the LSA set-aside portion of this acquisition, a labor surplus area concern which is also a small business concern (or a small business concern to the extent indicated below) must submit a responsive offer on the non-L
set-aside portion.

(ii) The Government reserves the rig
not to award to any concern submitting
token offer on the non-LSA set-aside p
tion or attempting by any other device
secure an unfair advantage over other off
ors.

(2) *Determining Priority for Award:* Lab
surplus concerns which are also small bu
ness concerns and other small business co
cerns eligible under (1) above will parti
pate in the set-aside in the following ord
of priority:

Group 1. Small business concerns whi
are also labor surplus area (LSA) concer

Group 2. Small business concerns whi
are not labor surplus area (LSA) concer
Within each of the above groups, offers
the LSA set-aside portion will be request
from concerns in the order of their offers
the non-LSA set-aside portion, beginni
with the lowest responsive offer. Concer
may offer less than the total LSA set-as
portion.

(3) *General Rule.* Subject to the exce
tions listed in (ii) and (iii) below, awa
under the LSA set-aside shall be made
the highest unit price for each item awa
ed on the non-LSA set-aside, adjusted to
flect transportation, rent-free use of G
ernment property and other cost fact
considered in evaluating offers on the no
LSA set-aside portion. The LSA set-as
award price shall be subject to the same d
count terms used in the evaluation of t
highest non-LSA set-aside award price.

(ii) *Award Price Involving Foreign E
Products* (see FAR Part 25).

(A) When the highest award price on t
non-LSA set-aside is established by
award for a foreign end product, the awa
price for the LSA set-aside portion shall
the award price on the non-LSA set-aside
adjusted in evaluating the offer submitti
the foreign end product for award under a
plicable Buy American procedures, exce
for awards on the LSA set aside to concer
offering foreign end products, in which ca
the general rule applies.

(B) Award under the LSA set-aside to
concern offering a foreign end produ
when the highest award price on the no
LSA set-aside portion is established by
award to a firm offering a domestic sour
end product, shall be at a price which, aft
application of the evaluation factors us
under Buy American procedures for dete
mining eligibility of a foreign end produ
for award, is equal to the highest awa
price on the non-LSA set-aside portion, a
justed to reflect transportation and oth
factors considered in evaluating the offers

(iii) *Obtaining Offers and Processing L
Set-Aside Awards.*

(A) When an unaccepted low offer is not involved: if there is no unaccepted low offer meeting the criteria in (B) below, eligible concerns in the order of priority in (2) above will be requested to offer on the LSA set-aside quantity at the highest unit price awarded on the non-LSA set-aside portion. Concerns may offer less than the total LSA set-aside portion. If any part of the LSA set-aside portion is not taken by eligible concerns, the partial LSA set-aside is automatically dissolved as to the unawarded portion. Such unawarded portion may be acquired by sealed bidding or negotiation, as appropriate, in accordance with existing regulations.

(B) When an unaccepted low offer is involved: if *a.* a responsive offer is submitted on the non-LSA set-aside portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the non-LSA set-aside portion, but cannot be accepted (e.g., because of "all-or-none" or other quantity limitations, or because the offeror is nonresponsible), and *b.* at the time of negotiation for the LSA set-aside portion, the offer could be accepted (e.g., because the LSA set-aside quantity is large enough that the quantity limitations could be complied with, or because the offeror has now become responsible), then the following procedures shall be followed.

Step One. Eligible concerns (in the order of priority in (2) above) will be requested to offer at the adjusted unit price of the unaccepted offer, a quantity of the LSA set-aside portion equal to the quantity of the unaccepted offer.

Step Two. If no eligible concern is willing to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in (2) above) shall be requested to make offers on any lesser portion at the same price, until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

Step Three.

Case 1. If the unaccepted offer was submitted by a concern not eligible to participate in the LSA set-aside, and if any of the quantity under Step Two is not awarded, then it and all other remaining quantities of the LSA set-aside portion must be withdrawn and resolicited. If the entire quantity under Step Two is awarded among eligible concerns, Steps Four, Five and Six are applicable to the remaining LSA set-aside portion.

Case 2. If the unaccepted offer was submitted by a concern eligible to participate in the LSA set-aside, Steps Four, Five and Six are applicable to the remaining LSA set-aside portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. However, the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at higher prices, unless the concern first accepts a quantity of the LSA set-aside portion equal to the entire quantity of its unaccepted offer at the adjusted price of its offer.

Step Four. In case there is more than one unaccepted offer which meets the conditions of *a.* and *b.* above, Steps One, Two and Three above shall be applied with respect to the quantities of each such offer in turn, from lowest price to highest.

Step Five. Eligible concerns in the order of priority in (2) above will be requested to offer, at the highest unit price awarded on the non-LSA set-aside portion on any quantity of the LSA set-aside portion, remaining after Steps One, Two, Three and Four have been completed.

Step Six. If the entire LSA set-aside portion is not taken by eligible concerns pursuant to Steps One through Five above, the partial LSA set-aside is automatically dissolved as to the unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(d) *Agreement.* The offeror agrees that if awarded a contract as a small business LSA concern under the set-aside portion of this acquisition, he will perform or cause to be performed a substantial proportion of the contract in areas classified at the time of award or at the time of performance of the contract as LSA.

(e) *Identification of Areas of Performance.* Each offeror desiring to be considered for award as a LSA concern on the LSA set-aside portion of this acquisition shall identify in Section _____ of his offer the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the contract. If the Department of Labor classification of any such area changes after the offeror has submitted this offer, the offeror may change the areas in which he proposes to perform, *provided,* that he so notifies the Contracting Officer before award of the LSA set-aside portion. Such offerors are instructed to insert in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" in Section ___ of the solicitation, the address(es) where costs incurred on account of manufacturing or production (by offeror or first-tier subcontractor) will amount to more than fifty percent (50%) of the contract price.

CAUTION: Failure to list the location of manufacture or production and the percentage of costs to be incurred at each location in the space provided in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" set forth in Section ___ of the solicitation will preclude consideration of the offeror as a LSA concern.

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the non-LSA set-aside portion and only one award will be made for each item or sub-item of the LSA set aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Combined Small Business-Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-LSA set-aside Contractor and the LSA set-aside Contractor to whom the awards are made.

(End of clause)

252.219-7002 Notice of combined small business-labor surplus area set-aside—alternate.

As prescribed at 219.502-70(d)(2), insert the following clause:

NOTICE OF COMBINED SMALL BUSINESS-LABOR SURPLUS AREA SET-ASIDE—ALTERNATE (APR 1985)

(a) *General.*

(1) Offers under this acquisition are solicited from small business concerns only and the acquisition is to be awarded only to one or more small business concerns. This action is based on a determination by the Contracting Officer, alone or in conjunction with representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, in the interest of war or national defense programs, or in the interest of assuring that a fair proportion of Government acquisition is placed with small business concerns. Offers received from firms which are not small business concerns shall be considered nonresponsive and shall be rejected.

(2) Part of this acquisition, identified in the solicitation as the "labor surplus area (LSA) set-aside portion," has been further set aside for award only to one or more LSA concerns, which are also small business concerns, and, to a limited extent, to small business concerns which do not qualify as LSA concerns. Award of the LSA set-aside portion will be made after awards have been made on the non-LSA set-aside portion.

(b) *Definitions.*

(1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is making an offer on Government contracts, and can further qualify under the criteria set forth in the regulations of the Small Business Administration (CFR Title 13, Section 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting offers in its own name must agree to furnish in the performance of the contract, end items manufactured or produced by small business concerns; *provided,* that this additional requirement does not apply in connection with construction or service contracts.

(2) *Labor Surplus Area.* The term "labor surplus area" means a geographic area which at the time of award is classified as such by the Secretary of Labor in the Department of Labor "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy 4B and Executive Order 10582."

(3) *Labor Surplus Area Concerns.* The term "labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in labor surplus areas amount to more than 50% of the contract price.

(c) *Procedures.*

(1) *Determining Eligibility:*

(i) To be eligible to participate in the LSA set-aside portion of this acquisition, a labor surplus area concern which is also a small business concern (or a small business concern to the extent indicated below) must submit a responsive offer on the non-LSA set-aside portion.

(ii) The Government reserves the right not to award to any concern submitting a token offer on the non-LSA set-aside portion or attempting by any other device to secure an unfair advantage over other offerors.

(2) *Determining Priority for Award:* Labor surplus concerns eligible under (1) above will participate in the LSA set-aside in the following order of priority:

Group 1. Small business concerns which are also LSA concerns. A concern in this group which has received an award on the non-LSA set-aside portion of an item shall first be requested to offer the same percentage of the LSA set-aside portion. If a percentage of the LSA set-aside portion of the item remains to be awarded, a drawing by lot shall determine the order of priority within this group for negotiations for the balance of the item.

Group 2. Small business concerns which are not LSA concerns. If a quantity of the item remains unawarded after negotiations with concerns in Group 1, the same procedure shall be followed for Group 2.

(3) *Determining the LSA Set-Aside Award Price:*

(i) *General Rule:* Subject to the exceptions listed in (ii) and (iii) below, award under the LSA set-aside shall be made at the highest unit price for each item awarded on the non-LSA set-aside, adjusted to reflect transportation, rent free use of Government property and other cost factors considered in evaluating offers on the non-LSA set-aside portion. When any one of separate quantities offered on an item cannot be accepted without awarding other quantities of that item at higher prices, the weighted average price shall be used to determine the highest unit price for award if the highest award of the non-LSA set-aside portion of an item was made on such a conditioned offer. When offers on the non-LSA set-aside portion tie-in two or more items so that an award cannot be made for a quantity on one item without a concurrent award of a quantity on another item, such tie-in conditions will be disregarded and the price offered for each quantity under each item shall be considered separately. The LSA set-aside award price shall be subject to the same discount terms used in the evaluation of the highest non-LSA set-aside award price.

(ii) *Award Price Involving Foreign End Products (see Part 25 of FAR and DoD FAR Supplement).*

(A) When the highest award price on the non-LSA set-aside is established by an award for a foreign end product, the award price for the LSA set-aside portion shall be the award price on the non-LSA set-aside as adjusted in evaluating the offer submitting the foreign end product for award under applicable Buy American procedures, except for awards on the LSA set-aside to concerns offering foreign end products, in which case the general rule applies.

(B) Award under the LSA set-aside to a concern offering a foreign end product, when the highest award price on the non-LSA set-aside portion is established by an award to a firm offering a domestic source end product, shall be at a price which, after application of the evaluation factors used under Buy American procedures for determining eligibility of a foreign end product for award, is equal to the highest award price on the non-LSA set-aside portion, adjusted to reflect transportation and other factors considered in evaluating the offers.

(iii) *Obtaining Offers and Processing LSA Set-Aside Awards.*

(A) When an unaccepted low offer is not involved: if there is no unaccepted low offer meeting the criteria in (B) below, eligible concerns in the order of priority in (2) above will be requested to offer on the LSA set-aside quantity at the highest unit price awarded on the non-LSA set-aside portion. Concerns may offer less than the total LSA set-aside portion. If any part of the LSA set-aside portion is not taken by eligible concerns, the partial LSA set-aside is automatically dissolved as to the unawarded portion. Such unawarded portion may be acquired by sealed bidding or negotiation, as appropriate, in accordance with existing regulations.

(B) When an unaccepted low offer is involved: if (I) a responsive offer is submitted on the non-LSA set-aside portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the non-LSA set-aside portion, but cannot be accepted (e.g., because of "all-or-none" or other quantity limitations, or because the offeror is nonresponsible), and (II) at the time of negotiation for the LSA set-aside portion, the offer could be accepted (e.g., because the LSA set-aside quantity is large enough that the quantity limitations could be complied with or because the offeror has now become responsible), then the following procedures shall be followed.

Step One. Eligible concerns (in the order of priority in (2) above) will be requested to offer at the adjusted unit price of the unaccepted offer, a quantity of the LSA set-aside portion equal to the quantity of the unaccepted offer.

Step Two. If no eligible concern is willing to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in (2) above) shall be requested to make offers on any lesser portion at the same price, until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

Step Three.

Case 1. If the unaccepted offer was submitted by a concern not eligible to participate in the LSA set-aside, and if any of the quantity under Step Two is not awarded, then it and all other remaining quantities of the LSA set-aside portion must be withdrawn and resolicited. If the entire quantity under Step Two is awarded among eligible concerns, Steps Four, Five and Six are applicable to the remaining LSA set-aside portion.

Case 2. If the unaccepted offer was submitted by a concern eligible to participate in the LSA set-aside, Steps Four, Five and Six are applicable to the remaining LSA set-aside portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. However, the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at higher prices, unless that concern first accepts a quantity of the LSA set-aside portion equal to the entire quantity of its unaccepted offer at the adjusted price of its offer.

Step Four. In case there is more than one unaccepted offer which meets the conditions of (I) and (II) above, Steps One, Two and Three above shall be applied with respect to the quantities of each such offer in turn, from lowest price to highest.

Step Five. Eligible concerns in the order of priority in (2) above will be requested to offer, at the highest unit price awarded on the non-LSA set-aside portion on any quantity of the LSA set-aside portion, remaining after Steps One, Two, Three and Four have been completed.

Step Six. If the entire LSA set-aside portion is not taken by eligible concerns pursuant to Steps One through Five above, the partial LSA set-aside is automatically dissolved as to the unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(4) *Determining the LSA Set-Aside Quantity:*

(i) The maximum quantity of an item which may be awarded to any eligible concern shall be determined by applying the percentage of the total non-LSA set-aside portion of an item on which an offer was made to the total quantity of the LSA set-aside portion of that item.

(ii) If a concern offers on two or more items on the non-LSA set aside portion, but conditions its offer in such a manner that the total of all these quantities may not be awarded, or offers a quantity which, at the option of the Government, may be applied to one or more items, the overall maximum which can be offered on the LSA set-aside portion of the items affected will be determined by applying the percent of the total quantities of these items on the non-LSA setaside portion that could have been awarded to the total of these items on the LSA set-aside portion.

(iii) Notwithstanding the foregoing, if the entire LSA set-aside portion of an item is not awarded after completion of the above steps, then the unawarded balance shall be offered to those concerns who were previously awarded quantities on the LSA set-aside portion but who were prevented from accepting additional quantities because of the quantity limitations stated above. The unawarded quantity will first be offered to that concern in the first priority which has received the largest quantity of the item. If two or more offerors in the first priority received an identical quantity, a drawing by lot shall determine their priority. If a balance still remains, this procedure shall be repeated with the offerors in each of the original priority groups in turn, to dispose of any balance of the item still remaining.

(d) *Agreement.* The offeror agrees that if awarded a contract as a small business LSA concern under the set-aside portion of this acquisition, he will perform or cause to be performed a substantial proportion of the contract in areas classified at the time of award or at the time of performance of the contract as LSA.

(e) *Identification of Areas of Performance.* Each offeror desiring to be considered for award as a LSA concern on the LSA set-aside portion of this acquisition shall identify in Section K of his offer the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the contract. If the Department of Labor classification of any such area changes after the offeror has submitted his offer, the offeror may change the areas in which he proposes to perform, *provided,* that he so notifies the Contracting Officer before award of the LSA set-aside portion. Such offerors are instructed to insert in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" in Section K of the solicitation, the address(es) where costs incurred on account of manufacturing or production (by offeror or first-tier subcontractor) will amount to more than fifty percent (50%) of the contract price.

CAUTION: Failure to list the location of manufacture or production and the percentage of cost to be incurred at each location in the space provided in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" set forth in Section K of the solicitation will preclude consideration of the offeror as a LSA concern.

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the non-LSA set-aside portion and only one award will be made for each item or sub-item of the LSA set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Combined Small Business-Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-LSA set-aside Contractor and the LSA set-aside Contractor to whom the awards are made.

(End of clause)

252.219-7003 Determining the set-aside award price.

As prescribed at 219.508(d), insert the following clause:

DETERMINING THE SET-ASIDE AWARD PRICE (APR 1985)

In determining the price for the set-aside portion when the clause at FAR 52.219-7 Notice of Partial Small Business Set-Aside is included herein, the following procedures will be used:

(a) *General Rule.* Subject to the exceptions listed in (b) and (c) below, awards under the set-aside shall be made at the highest unit price for each item awarded on the non-set-aside, adjusted to reflect transportation, rent free use of Government property and other cost factors considered in evaluating offers on the non-set-aside portion. The set-aside award price shall be subject to the same discount terms used in the evaluation of the highest non-set-aside award price.

(b) *Award Price Involving Foreign End Products (see Part 25 of the FAR and Part 225 of the DoD FAR Supplement.*

(1) When the highest award price on the non-set-aside is established by an award for a foreign end product, the award price for the set-aside portion shall be the award price on the non-set-aside as adjusted in evaluating the offer submitting the foreign end product for award under applicable Buy American procedures, except for awards on the set-aside to concerns submitting foreign end products in which case the general rule applies.

(2) Award under the set-aside to a concern offering a foreign end product, when the highest award price on the non-set-aside portion is established by a domestic source end product, shall be at a price which, after application of the evaluation factors used under Buy American procedures for determining eligibility of a foreign end product for award, is equal to the highest award price on the non-set-aside portion, adjusted to reflect transportation and other factors considered in evaluating the offers.

(c) *Obtaining Offers and Processing Set-Aside Awards.*

(1) When an unaccepted low offer is not involved; if there is no unaccepted low offer meeting the criteria in (ii) below, eligible concerns in the order of priority in FAR 19.202-3 will be requested to offer on the set-aside quantity at the highest unit price awarded on the non-set-aside portion. Concerns may offer less than the total set-aside portion. If any part of the set-aside portion is not taken by eligible small business concerns, the partial set-aside is automatically dissolved as to the unawarded portion. Such unawarded portion may be acquired by sealed bidding or negotiation, as appropriate, in accordance with existing regulations.

(2) When an unaccepted low offer is involved; if (i) a responsive offer is submitted on the non-set-aside portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the non-set-aside portion, but cannot be accepted (e.g., because of "all-or-none" or other quantity limitations, or because the offeror is nonresponsible), and (ii) at the time of negotiation for the set-aside portion, the offer could be accepted (e.g., because the set-aside quantity is large enough that the quantity limitations could be complied with, or because the offeror has now become responsible), then the following procedures shall be followed:

Step One. Eligible concerns (in the order of priority in FAR 19.202-3) will be requested to offer at the adjusted unit price of the unaccepted offer, a quantity of the set-aside portion equal to the quantity of the unaccepted offer.

Step Two. If no eligible concern is willing to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in FAR 19.202-3) shall be requested to make offers on any lesser portion at the same price, until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

Step Three.

Case 1. If the unaccepted offer was submitted by a concern not eligible to participate in the set-aside, and if any of the quantity under Step Two is not awarded, then it and all other remaining quantities of the set-aside portion must be withdrawn and resolicited. If the entire quantity under Step Two is awarded among eligible concerns, Steps Four, Five and Six are applicable to the remaining set-aside portion.

Case 2. If the unaccepted offer was submitted by a concern eligible to participate in the set-aside, Steps Four, Five and Six are applicable to the remaining set-aside portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. However, the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at higher prices, unless that concern first accepts a quantity of the set-aside portion equal to the entire quantity of its unaccepted offer, at the adjusted price of its offer.

Step Four. In case there is more than one unaccepted offer which meets the conditions of (c)(2) (i) and (ii) above, Steps One, Two and Three above shall be applied with respect to the quantities of each such offer, in turn, from lowest to highest.

Step Five. Eligible concerns in the order of priority in FAR 19.202-3 will be requested to offer at the highest unit price awarded on the non-set-aside portion of any quantity of the set-aside portion remaining after Steps One, Two, Three and Four have been completed.

Step Six. If the entire set-aside portion is not taken by eligible small business concerns pursuant to Steps One through Five above, the partial set-aside is automatically dissolved as to the unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(End of clause)

252.219-7004 Eligibility for preference as a labor surplus concern.

As prescribed at 219.508(70), insert the following clause:

ELIGIBILITY FOR PREFERENCE AS A LABOR SURPLUS CONCERN (APR 1985)

Each offeror desiring to be considered for award as a labor surplus area (LSA) concern on the set-aside portion of this acquisition, specified elsewhere in the schedule, shall indicate below the address(es) where costs incurred on account of manufacturing or production (by offeror or first tier subcontractor) will amount to more than fifty percent (50%) of the contract price:

Name of Company: ______________

Street Address: ______________

City/County: ______________

State: ______________

(If more than one location is to be used, list each location and the costs to be incurred at each, stated as a percentage of the contract price.)

CAUTION: Failure to list the location of manufacture or production and the percentage, if required, of cost to be incurred at each location will preclude consideration of the offeror as a LSA concern.

(End of clause)

252.219-7005 Small disadvantaged business concern representation (DoD FAR Supplement Deviation).

As prescribed in 219.304(b), insert the following provision:

SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION (DOD FAR SUPPLEMENT DEVIATION) (APR 1990)

(a) *Definition.* "Small disadvantaged business concern", as used in this provision, means a small business concern, including mass media, owned and controlled by individuals who are both socially and economically disadvantaged, as defined in regulations prescribed by the U.S. Small Business Administration at 13 CFR Part 124, the majority of earnings of which directly accrue to such individuals. (13 CFR Part 124 generally provides that a small disadvantaged business concern is a small business concern (1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the voting stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) whose management and daily business operations are controlled by one or more such individuals.) (See 13 CFR 124.101 through 124.109.) This term also means a small business concern that is owned and controlled by an economically disadvantaged Indian tribe or Nattive Hawaiian Organization and which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113 respectively.

(b) *Representations.* The Offeror represents that its qualifying ownership falls within at least one of the following categories (check the applicable categories):

______ Subcontinent Asian (Asian-Indian) American (U.S. Citizen with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal)

______ Asian Pacific American (U.S. Citizens with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia)

______ Black American (U.S. Citizen)

______ Hispanic American (U.S. Citizen with origins from South America, Central America, Mexico Cuba, the Dominican Republic, Puerto Rico, Spain or Portugal)

______ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians, including Indian tribes or Native Hawaiian Organizations)

______ Individual/concern currently certified for participation in the Minority Small Business and Capital Ownership Development Program under section 8(a) of the Small Business Act (15 U.S.C. 637(a))

______ Other

(c) *Certification.*

(1) The Offeror represents and certifies, as part of its offer, that it is ______, is not ______ a small disadvantaged business concern.

(2) The Offeror represents and certifies, as part of its offer, that the Small Business Administration (SBA) has ______, has not ______ made a determination concerning the Offeror's status as a small disadvantaged business concern. If the SBA has made such a determination, the date of the determination was ______ and the Offeror certifies that it:

______ was found by the SBA to be socially and economically disadvantaged as a result of that determination and that no circumstances have changed to vary that determination.

______ was found by the SBA not to be socially and economically disadvantaged as a result of the determination, but circumstances which caused the determination have changed.

(d) *Notification.* The Offeror agrees to notify the Contracting Officer before award of any change in its status as a small disadvantaged business concern occurring between the submission of its offer and contract award.

(e) *Penalties and Remedies.* The Offeror represents and certifies that the above information is true and understands that whoever for the purpose of securing a contract or subcontract under subsection (a) of Section 1207 of Public Law 99-661 misrepresents the status of any concern or person as a small business concern owned and controlled by minority (as described in subsection (a)) shall (i) be punished by imposition of a fine, imprisonment, or both; (ii) be subject to administrative remedies including suspension and disbarment; and (iii) be ineligible for participation in programs conducted under the authority of the Small Business Act.

(End of provison)

[53 FR 5129, Feb. 19, 1988, as amended at 53 FR 20630, 20631, June 6, 1988; 55 FR 19080, May 8, 1990; 55 FR 30159, July 24, 1990]

252.219-7006 Notice of total small disadvantaged business set-aside.

As prescribed in 219.508(S-71)(1), insert the following clause:

NOTICE OF TOTAL SMALL DISADVANTAGED BUSINESS SET-ASIDE (FEBRUARY 1988)

(a) *Definition.* The term "small disadvantaged business (SDB) concern", as used in this clause, has the meaning set forth in Section 219.001 of the DoD Federal Acquisition Regulation Supplement.

(b) *General.*

(1) Offers are solicited only from SDB concerns. Offers received from concerns that are not SDB concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to an SDB concern.

(c) *Agreement.* An SDB manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing this contract, only end items manufactured or produced by SDB concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

(End of clause)

ALTERNATE I (FEB 1988)

If a determination has been made in accordance with 219.508(S-71(2) that there are no SDB manufacturers available who can meet the requirements of the solicitation, insert the following paragraph (c) in lieu of paragraph (c) of the basic clause:

(c) *Agreement.* An SDB regular dealer submitting an offer in its own name agrees to furnish, in performing this contract, only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

[53 FR 5129, Feb. 19, 1988, as amended at 53 FR 20630, 20631, June 6, 1988]

252.219-7007 Notice of evaluation preference for Small Disadvantaged Business (SDB) concerns (unrestricted).

As prescribed in 219.7002(a), insert the following clause:

NOTICE OF EVALUATION PREFERENCE FOR SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS (UNRESTRICTED) (JUL 1989)

(a) *Definition.* The term "small disadvantaged business (SDB) concern," as used in this clause, has the meaning set forth in the clause entitled Small Disadvantaged Business Concern Representation (DoD FAR Supplement).

(b) *Evaluation.* (1) After all other evaluation factors described in this solicitation are applied, offers will be evaluated by adding a factor of ten percent (10%) to offers from concerns that are not SDB concerns and to offers from those SDB concerns which elect to waive the SDB evaluation preference (see paragraph (c) below) by checking the box below. However, in no event may award be made to an SDB concern at a price which exceeds fair market price (as determined under FAR 19.806-2) by more than ten percent (10%).

(2) The evaluation factor described in paragraph (b)(1) above shall not be applied to (i) otherwise low offers of (A) eligible products under the Trade Agreements Act as defined in DFARS 225.401 when the acquisition equals or exceeds the dollar threshold stated in FAR 25.402, or (B) qualifying country end products as defined in DFARS 225.001; or (ii) where the application would be inconsistent with a Memorandum of Understanding or any other international agreement with a foreign government

(see Appendix T to the DoD FAR Supplement).

☐The SDB Offeror requests that the evaluation preference in paragraph (b) above not be given to this offer.

(c) *Agreement.* (1) By submission of an offer and execution of a contract, the SDB Offeror/Contractor (except a regular dealer) who did not waive the evaluation preference by checking the box in paragraph (b) above agrees that in performance of the contract in the case of a contract for—

(i) *Services (except construction).* At least fifty percent (50%) of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(ii) *Supplies.* The concern shall perform work for at least fifty percent (50%) of the cost of manufacturing the supplies, not including the cost of materials.

(iii) *General construction.* The concern will perform at least fifteen percent (15%) of the cost of the contract, not including the cost of materials, with its own employees.

(iv) *Construction by special trade contractors.* The concern will perform at least twenty-five percent (25%) of the cost of the contract, not including the cost of materials, with its own employees.

(2) An SDB regular dealer submitting an offer in its own name, who did not waive the evaluation preference by checking the box in paragraph (b) above, agrees to furnish, in performing this contract, only end items manufactured or produced by SDB concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

(d) *HBCU/MI Offer.* In the event an HBCU/MI, as defined at 226.7002, submits an offer under this solicitation, it shall be evaluated as though it were an SDB concern and shall be required to submit to the Contracting Officer, upon request, a certification as to its HBCU/MI status.

(End of clause)

ALTERNATE I (JUL 1989)

If a determination has been made in accordance with DFARS 219.7002 that there are no SDB manufacturers available who can meet the requirements of this solicitation, insert the following paragraph (c)(2) in lieu of paragraph (c)(2) of the basic clause:

(c)(2) An SDB regular dealer submitting an offer in its own name, who did not waive the evaluation preference by checking the box in paragraph (b) above, agrees to furnish, in performing this contract, only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

[53 FR 5129, Feb. 19, 1988, as amended at 53 FR 20630, 20631, June 6, 1988; 53 FR 50417, Dec. 15, 1988; 54 FR 31039, July 26, 1989]

252.219-7008 [Reserved]

252.219-7009 Incentive program for subcontracting with small and small disadvantaged business concerns, Historically Black Colleges and Universities and Minority Institutions.

As prescribed in 219.708(c) (1), insert the following clause:

INCENTIVE PROGRAM FOR SUBCONTRACTING WITH SMALL AND SMALL DISADVANTAGED BUSINESS CONCERNS, HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS (APR 1990)

(a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its subcontracting plan to try to award a certain percentage to small business concerns and a certain percentage to small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

(b) If the Contractor exceeds its SDB HBCU/MI subcontracting goal in performing this contract, it will receive at completion of contract performance ______ (Insert the appropriate number between 1 and 10) percent of the dollars in excess of the SDB/HBC/MI subcontracting goals in the plan.

(c) The Contractor will not be entitled to receive an incentive award under this clause if the Contracting Officer determines that the amount by which the Contractor exceeded its goal was not due to the Contractor's efforts (e.g., a subcontractor cost overrun, or the award of subcontracts that had been planned but had not been disclosed in the subcontracting plan during contract negotiations, caused the actual subcontract amount to exceed that estimated in the subcontracting plan). Determinations made under this paragraph are not subject to the Disputes clause.

(d) If this is a cost contract, the limitations of FAR Subpart 15.9 may not be exceeded.

(e) This clause is not effective if this contract is awarded based on a subcontracting plan submitted and approved under FAR 52.219-9, paragraph (g).

(End of clause)

ALTERNATE I (APR 1990)

As prescribed at 219.708(c)(1), insert the following paragraph (c), and reidentify the existing paragraphs (c), (d), and (e) as (d), (e), and (f):

(c) With reference to small businesses other than SDBs, if the Contractor exceeds its small business subcontracting goals in performance of this contract, it will receive at completion of contract performance ______ (insert the appropriate number between 0-10) percent of the dollars in excess of the goal in the plan.

[53 FR 5130, Feb. 19, 1988, as amended at 53 FR 20631, June 6, 1988; 55 FR 19081, May 8, 1990]

252.219-7010 Notice of partial small business set-aside with preferential consideration for Small Disadvantaged Business (SDB) concerns.

As prescribed at 219.508(72), insert the following clause:

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE WITH PREFERENTIAL CONSIDERATION FOR SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS (JUL 1989)

(a) *Definitions.*

"Labor surplus area", as used in this clause, means a geographical area identified by the Department of Labor as an area of labor surplus.

"Labor surplus area concern", as used in this clause, means a concern that, together with its first-tier subcontractors, will perform substantially in labor surplus areas.

"Perform substantially in labor surplus areas", as used in this clause, means that the costs incurred under the contract on account of manufacturing, production, and performance of services in labor surplus areas exceed fifty percent (50%) of the contract price.

"Small business concern", as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

"Small disadvantaged business (SDB) concern", as used in this clause, means a small business concern, including mass media, owned and controlled by individuals who are both socially and economically disadvantaged, as defined in regulations prescribed by the Small Business Administration (SBA) at 13 CFR Part 124, the majority of earnings of which directly accrue to such individuals.

(b) *General.* (1) A portion of this requirement, identified elsewhere in this solicitation, has been set aside for award to one or more small business concerns.

(2) Offers on the non-set-aside portion will be evaluated first and award will be made on that portion in accordance with the provisions of this solicitation.

(3) Except as provided in paragraph (a)(4)(iii) below, the set-aside portion will be awarded at the highest unit price(s) in the contract for the non-set-aside portion, adjusted to reflect transportation and other costs appropriate for the selected contractors.

(4)(i) The contractor(s) for the set-aside portion will be selected from among the small business concerns that submitted responsive offers on the non-set-aside portion. These concerns fall into four groups:

(A) Group 1—SDB concerns that are also labor surplus area concerns.

(B) Group 2—Small business concerns that are also labor surplus area concerns.

(C) Group 3—Other SDB concerns.

(D) Group 4—Other small business concerns.

(ii) Negotiations will be conducted with the concern in Group 1 that submitted the lowest responsive offer on the non-set-aside portion. If the negotiations are not successful or if only part of the set-aside portion is awarded to that concern, negotiations will be conducted with the Group 1 concern that submitted the second-lowest responsive offer on the non-set-aside portion. This process will continue, first with concerns in Group 1, and then with concerns in Groups 2 through 4, until a contract or contracts are awarded for the entire set-aside portion.

(iii) Award to SDB concerns on the set-aside portion will be at the lower of either: (A) The price offered by the concern on the non-set-aside portion; or (B) a price that does not exceed the award price on the non-set-aside portion by more than ten percent (10%). However, in no event may award to an SDB exceed fair market price (as determined under FAR 19.806-2) by more than ten percent (10%).

(5) The Government reserves the right not to consider token offers or offers designed to secure an unfair advantage over other offerors eligible for the set-aside portion.

(c) *Agreement.* (1) The Offeror agrees that if awarded a contract as an SDB-labor surplus area concern or as a small business-labor surplus area concern, it will perform the contract, or cause it to be performed, substantially in areas classified as labor surplus areas at the time of award or performance of this contract. However, if an area selected by the Offeror is no longer classified as a labor surplus area at the time of performance, the Offeror will make an effort to select another area for performance that is classified at that time as a labor surplus area.

(2) The Offeror agrees that, if awarded a contract that exceeds twenty-five thousand dollars ($25,000), it will submit a report to the Contracting Officer within thirty (30) days after the date of award (or a longer period of time, if prescribed by the Contracting Officer) that contains the following information:

(i) The dollar amount of the contract;

(ii) Identification of each labor surplus area in which contract (and subcontract) performance is taking or will take place;

(iii) The total costs incurred and the total costs to be incurred under the contract on account of manufacturing, production, and performance of services in each of the labor surplus areas by (A) the prime Contractor and (B) first-tier subcontractors;

(iv) The total dollar amount attributable to performance in labor surplus areas.

(3) In order to be entitled to preferential consideration, an SDB manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by SDB concerns inside the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

(End of clause)

Alternate I (Jul 1989)

If a determination has been made in accordance with 219.508(S-72) that there are no SDB manufacturers available who can meet the requirements of the solicitation, insert the following paragraph (c)(3) in lieu of paragraph (c)(3) of the basic clause:

(c)(3) In order to be entitled to preferential consideration, an SDB manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

[53 FR 5130, Feb. 19, 1988, as amended at 53 FR 20630, 20631, June 6, 1988; 54 FR 31039, July 26, 1989]

252.219-7011 Determining the set-aside award price (preferential small disadvantaged business consideration).

As prescribed at 219.508(S-73), insert the following clause:

Determining the Set-Aside Award Pri
(Preferential Small Disadvantaged Bu
ness Consideration) (February 1988)

Except as provided in the clause of th contract entitled, Notice of Partial Sm Business Set-Aside With Preferential Co sideration for Small Disadvantaged Busine Concerns (DFARS 252.219-7010), in dete mining the price for the set-aside portion this contract, the following procedures w be used:

(a) *General Rule.* Subject to the excep tions listed in (b) and (c) below, awar under the set-aside shall be made at th highest unit price for each item awarded the non-set-aside, adjusted to reflect tran portation, rent-free use of Governme property and other cost factors consider in evaluating offers on the non-set-asi portion. The set-aside award price shall subject to the same discount terms used the evaluation of the highest non-set asi award price.

(b) *Award Price Involving Foreign E Products (see Part 25 of the FAR and P 225 of the DoD FAR Supplement).* (1) Whe the highest award price on the non-set-asi is established by an award for a foreign en product, the award price for the set-asi portion shall be the award price on the no set-aside as adjusted in evaluating the off submitting the foreign end product f award under applicable Buy American pr cedures, except for awards on the set-asi to concerns submitting foreign end pro ucts, in which case the general rule appli

(2) Award under the set-aside to a concer offering a foreign end product, when th highest award price on the non-set-asi portion is established by a domestic sour end product, shall be at a price which, aft application of the evaluation factors us under Buy American procedures for dete mining eligibility of a foreign end produ for award, is equal to the highest awa price on the non-set-aside portion, adjuste to reflect transportation and other facto considered in evaluating the offers.

(c) *Obtaining Offers and Processing S Aside Awards.* (1) When an unaccepted l offer is not involved; if there is no unaccep ed low offer meeting the criteria in (c)(2) below, eligible concerns in the order of p ority in the clause of this contract entitle Notice of Small Business Set-Aside Wi Preferential Consideration for Small Dis vantaged Business Concerns, will be reque ed to offer on the set-aside quantity at t highest unit price awarded on the non-s aside portion. If any part of the set-as portion is not taken by eligible small bu ness concerns, the partial set-aside is au matically dissolved as to the unawarded p tion. Such unawarded portion may be quired by sealed bidding or negotiation.

appropriate, in accordance with existing regulations.

(2) When an unaccepted low offer is involved; if (i) A responsive offer is submitted on the non-set-aside portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the non-set-aside portion, but cannot be accepted (e.g., because of "all-or-none" or other quantity limitations, or because the offeror is nonresponsible), and (ii) at the time of negotiation for the set-aside portion, the offer could be accepted (e.g., because the set-aside quantity is large enough that the quantity limitations could be complied with, or because the offeror has now become responsible), then the following procedures shall be followed:

Step One. Eligible concerns (in the order of priority in the clause of this contract entitled, Notice of Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business Concerns), will be requested to offer at the adjusted unit price of the unaccepted offer, a quantity of the set-aside portion equal to the quantity of the unaccepted offer.

Step Two. If no eligible concern is willing to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in the clause of this contract entitled, Notice of Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business Concerns), shall be requested to make offers on any lesser portion at the same price, until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

Step Three.

Case 1. If the unaccepted offer was submitted by a concern not eligible to participate in the set-aside, and if any of the quantity under Step Two is not awarded, then it and all other remaining quantities of the set-aside portion must be withdrawn and resolicited. If the entire quantity under Step Two is awarded among eligible concerns, Steps Four, Five and Six are applicable to the remaining set-aside portion.

Case 2. If the unaccepted offer was submitted by a concern eligible to participate in the set-aside, Steps Four, Five and Six are applicable to the remaining set-aside portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. However, the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at the higher prices, unless that concern first accepts a quantity of the set-aside portion equal to the entire quantity of its unaccepted offer, at the adjusted price of its offer.

Step Four. In case there is more than one unaccepted offer which meets the conditions of (c)(2) (i) and (ii) above, Steps One, Two and Three above shall be applied with respect to the quantities of each such offer, in turn, from lowest to highest.

Step Five. Eligible concerns in the order of priority in the clause of this contract entitled, Notice of Small Business Set-Aside With Preferential Consideration for Small Disadvantaged Business Concerns, will be requested to offer at the highest unit price awarded on the non-set-aside portion of any quantity of the set-aside portion remaining after Steps One, Two, Three and Four have been completed.

Step Six. If the entire set-aside portion is not taken by eligible small business concerns pursuant to Steps One through Five above, the partial set-aside is automatically dissolved as to the unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(End of clause)

[53 FR 5131, Feb. 19, 1988 and 53 FR 20630, June 6, 1988]

252.219-7012 Small business concern representation for the Small Business Competitiveness Demonstration Program.

As prescribed at 219.1071(a), insert the following provision in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups.

SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN. 1989)

(a) *Definition.*

"Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) (Complete only if Offeror has certified itself under the clause at FAR 52.219-1 as a small business concern under the size standards of this solicitation.)

The Offeror represents and certifies as part of its offer that it —— is, —— is not an emerging small business.

(c) Complete only if the Offeror is a small business or an emerging small business, indicating its size range.

Offeror's number of employees for the past twelve months or Offeror's average annual gross revenue for the last three fiscal years. (Check one of the following.)

No. of employees	Average annual gross revenues
50 or fewer	$1 million or less.
51-100	$1,000,001-$2 million.
101-250	$2,000,001-$3.5 million.
251-500	$3,500,001-$5 million.
501-750	$5,000,001-$10 million.
751-1,000	$10,000,001-$17 million.
Over 1,000	Over $17 million.

(End of provision)

[54 FR 4248, Jan. 27, 1989, and 54 FR 26208, June 22, 1989, as amended at 54 FR 7191, Feb. 17, 1989]

252.219-7013 Notice of emerging small business set-aside.

As prescribed at 219.1071(b), insert the following provision in full text in all solicitations restricted to emerging small businesses pursuant to 219.1070-2.

NOTICE OF EMERGING SMALL BUSINESS SET-ASIDE (JAN. 1989)

Offers of quotations under this acquisition are solicited from emerging small business concerns only. Offers that are not from an emerging small business shall not be considered and shall be rejected.

(End of provision)

[54 FR 4248, Jan. 27, 1989, and 54 FR 26208, June 22, 1989]

252.219-7014 Small business size representation for targeted industry categories under the Small Business Competitiveness Demonstration Program.

As prescribed at 219.1071(c), insert the following provision in full text in all solicitations issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of $25,000.

SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN. 1989)

Complete only if the Offeror has certified itself under the clause at FAR 52.219-1 to be a small business concern under the size standards of this solicitation.

Offeror represents and certifies as follows:

Offeror's number of employees for the past twelve months or Offeror's average annual gross revenue for the last three fiscal years. (Check one of the following.)

No. of employees	Average annual gross revenues
50 or fewer	$1 million or less.
51-100	$1,000,001-$2 million.
101-250	$2,000,001-$3.5 million.
251-500	$3,500,001-$5 million.
501-750	$5,000,001-$10 million.
751-1,000	$10,000,001-$17 million.
Over 1,000	Over $17 million.

(End of provision)

[54 FR 4248, Jan. 27, 1989, and 54 FR 26208, June 22, 1989]

252.219-7015 Small Business and Small Disadvantaged Business Subcontracting Plan (Defense FAR Supplement Deviation).

As prescribed in 219.708(b)(1), insert the following clause:

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (DEFENSE FAR SUPPLEMENT DEVIATION) (JUL 1990)

(a) Definition. "Subcontract", as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(b) The Offeror's comprehensive small business subcontracting plan and its successors, which are authorized by and approved under the test program of section 834 of Pub. L. 101-189, shall be included in and made a part of the resultant contract. Upon expulsion from the test program or expiration of the test program, the Contractor shall negotiate an individual subcontracting plan for all future contracts that meet the requirements of section 211 of Pub. L. 95-507.

(c) The Contractor shall submit Standard Form 295, Summary Subcontract Report, in accordance with the instructions on the form, except (1) Items 17 and 18 shall not be completed; (2) Item 16, Remarks, shall be completed to include small business and small disadvantaged business goals, actual accomplishments, and percentages and small business and small disadvantaged business goals, actual accomplishments and percentages for each of the two designated industry categories.

(d) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(End of clause)

[55 FR 30159, July 24, 1990]

252.219-7016 Liquidated Damages—Small Business Subcontracting Plan (Defense FAR Supplement Deviation).

As prescribed in 219.708(b)(2), insert the following clause:

LIQUIDATED DAMAGES—SMALL BUSINESS SUBCONTRACTING PLAN (DEFENSE FAR SUPPLEMENT DEVIATION) (JUL 1990)

(a) "Failure to make a good faith effort to comply with the comprehensive subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the comprehensive subcontracting plan approved under the test program authorized by section 834 of Pub. L. 101-189, or willful or intentional action to frustrate the plan.

(b) If, at the close of the fiscal year for which the plan is applicable or at the close of a subsequent fiscal year for which a successor plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its comprehensive subcontracting plan, the Contractor shall pay the Government liquidated damages in an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the comprehensive subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) The Contracting Officer of the agency that originally approved the comprehensive subcontracting plan will exercise the functions of the Contracting Officer under this clause on behalf of all Department of Defense departments and agencies that awarded contracts covered by the Contractor's comprehensive subcontracting plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

[55 FR 30160, July 24, 1990]

252.220-7000 Notice of labor surplus area set-aside.

As prescribed at 220.7003(b)(2)(i), insert the following clause:

NOTICE OF LABOR SURPLUS AREA SET-ASIDE (APR 1985)

(a) *General.* Part of this acquisition, identified in the Schedule as the "set-aside portion," has been set aside for preferential award to one or more labor surplus area (LSA) concerns, and, to a limited extent, to other business concerns which do not qualify as LSA concerns. Award of the set-aside portion will be made after awards have been made on the non-set-aside portion.

(b) *Procedures.*

(1) *Determining Eligibility.*

(i) To be eligible to participate in the set-aside portion of this acquisition, a concern must submit a responsive offer on the nonset-aside portion.

(ii) The Government reserves the right not to award to any concern submitting a token offer on the non-set-aside portion or attempting by any other device to secure an unfair advantage over other offerors.

(2) *Determining Priority for Award.* Labor surplus concerns and other business concerns eligible under (1) above will participate in the set-aside in the following order of priority:

Group 1. LSA concerns which are also small business concerns.

Group 2. Other LSA concerns.

Group 3. Small business concerns which are not LSA concerns.

Group 4. Other business concerns which are not LSA concerns. Within each of the above groups, offers on the set-aside portion will be requested from concerns in the order of their offers on the nonset-aside portion, beginning with the lowest responsive offer. Concerns may offer less than the total set-aside portion.

(3) *Determining the Set-Aside Award Price.*

(i) *General Rule.* Subject to the exceptions listed in (ii) and (iii) below, awards under the set-aside shall be made at the highest unit price for each item awarded on the non-set-aside, adjusted to reflect transportation, rent-free use of Government property and other cost factors considered in evaluating bids on the non-set-aside portion. The set-aside award price shall be subject to the same discount terms used in the evaluation of the highest non-set-aside award price.

(ii) *Award Price Involving Foreign End Products (see Part 25 of the FAR and DoD FAR Supplement).*

(A) When the highest award price on the non-set-aside is established by an award for a foreign end product, the award price for the set-aside portion shall be the award price on the non-set-aside as adjusted in evaluating the offer submitting the foreign end product for award under applicable Buy American procedures, except for awards on the set-aside to concerns offering foreign end products, in which case the general rule applies.

(B) Award under the set-aside to a concern offering a foreign end product when the highest award price on the non-set-aside portion is established by a domestic source end product shall be at a price which, after application of the evaluation factors used under Buy American procedures for determining eligibility of a foreign end product for award, is equal to the highest award price on the non-set-aside portion, adjusted to reflect transportation and other factors considered in evaluating the offers.

(iii) *Obtaining Offers and Processing Set-Aside Awards.*

(A) When an unaccepted low offer is not involved: if there is no unaccepted low offer meeting the criteria in (B) below, eligible concerns in the order of priority in (2) above will be requested to offer on the set-aside quantity at the highest unit price awarded on the non-set-aside portion. Concerns may offer less than the total non-set-aside portion, *provided* that if any part of the set-aside portion is not taken by eligible concerns in the first 3 groups, awards will be made in Group 4 at prices no higher than the lower price awarded on the non-set-aside portion.

(B) When an unaccepted low offer is involved: if *a.* a responsive offer is submitted
on the non-set-aside portion at a unit pr
which, when adjusted, is lower than the
justed higher unit price awarded on t
non-set-aside portion, but cannot be acce
ed (e.g., because of "all-or-none," or oth
quantity limitations, or because the bid
is nonresponsible), and *b.* at the time of
gotiation for the set-aside portion, the of
could be accepted (e.g., because the set-as
quantity is large enough that the quant
limitations could be complied with, or
cause the bidder has now become respo
ble), then the following procedures shall
followed:

Step One. Eligible concerns (in the or
of priority in (2) above), excluding Grou
firms, will be requested to offer at the
justed unit price of the unaccepted bid
quantity of the set-aside portion equal
the quantity of the unaccepted offer.

Step Two. If no eligible concern will o
to take the entire quantity of the unacc
ed offer, then all eligible concerns (in
order of priority in (2) above), exclud
Group 4 firms, shall be requested to o
on any lesser portion at the same pr
until either the entire quantity is awar
or all eligible concerns refuse any furt
portions of such quantity.

Step Three. Steps Four, Five and Six
applicable to the remaining set-aside
tion regardless of whether any quan
under Step Two is not awarded after all
gible concerns have been afforded an op
tunity to offer on the unaccepted quant
However, the concern which submitted
unaccepted offer shall be eliminated f
consideration under Step Four and S
Five, for award at higher prices, unless
concern first accepts a quantity of the
aside portion equal to the entire quanti
its unaccepted offer at the adjusted pric
its offer.

Step Four. In case there is more than
unaccepted offer which meets the co
tions of *a.* and *b.* above, Steps One, Two
Three above shall be applied with respe
the quantities of each such offer in t
from lowest price to highest.

Step Five. Eligible concerns in the ord
priority in (2) above will be requeste
offer at the highest unit price awarde
the non-set-aside portion on any quanti
the set-aside portion remaining after S
One, Two, Three and Four have been c
pleted, *provided,* that if any part of the
aside portion is not taken by eligible
cerns in the first 3 groups, awards wi
made in Group 4 beginning with the lo
offeror on the non-set-aside portion
prices no higher than the lowest
awarded on the non-set-aside portion.

Step Six. If the entire set-aside porti
not taken by eligible concerns pursua
Steps One through Five above, the pa
set-aside is automatically dissolved as to

unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(c) *Definitions.*

(1) "Labor surplus area" means a geographic area which at the time of award is classified as such by the Secretary of Labor in the Department of Labor "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy 4B and Executive Order 10582."

(2) "Labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in labor surplus areas amount to more than fifty percent (50%) of the contract price.

(3) "Small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is offering on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (CFR Title 13, Section 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting offers in its own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns; *provided*, that this additional requirement does not apply in connection with construction or service contracts.

(d) *Agreement.* The offeror agrees that if awarded a contract as a LSA concern under the set-aside portion of this acquisition, he will perform or cause to be performed a substantial proportion of the contract in areas classified at the time of award or at the time of performance of the contract as LSA.

(e) *Identification of Areas of Performance.* Each offeror desiring to be considered for award as a LSA concern on the LSA set-aside portion of this acquisition shall identify in Section K of his offer the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the contract. If the Department of Labor classification of any such area changes after the offeror has submitted his offer, the offeror may change the areas in which he proposes to perform, *provided*, that he so notifies the Contracting Officer before award of the LSA set-aside portion. Such offerors are instructed to insert in the clause entitled *"Eligibility for Preference as a Labor Surplus Area Concern"* in Section K of the solicitation, the address(es) when costs incurred on account of manufacturing or production (by offeror or first tier subcontractor) will amount to more than fifty percent (50%) of the contract price.

CAUTION: Failure to list the location of manufacture or production and the percentage of cost to be incurred at each location in the space provided in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" set forth in Section K of the solicitation will preclude consideration of the offeror as a LSA concern.

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the non-set-aside portion and only one award will be made for each item or sub-item of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-set-aside Contractor and the set-aside Contractor to whom the awards are made.

(End of clause)

252.220–7001 Notice of labor surplus area set-aside—alternate.

As prescribed at 220.7003(b)(2)(ii), insert the following clause:

NOTICE OF LABOR SURPLUS AREA SET-ASIDE–ALTERNATE (APR 1985)

(a) *General.* Part of this acquisition, identified in the Schedule as the "set-aside portion," has been set aside for preferential award to one or more labor surplus area (LSA) concerns, and, to a limited extent, to other business concerns which do not qualify as LSA concerns. Award of the set-aside portion will be made after awards have been made on the non-set-aside portion.

(b) *Procedures.*

(1) *Determining Eligibility.*

(i) To be eligible to participate in the set-aside portion of this acquisition, a concern must submit a responsive offer on the non-set-aside portion.

(ii) The Government reserves the right not to award to any concern submitting a token offer on the non-set-aside portion or attempting by any other device to secure an unfair advantage over other offerors.

(2) *Determining Priority for Award.* Labor surplus concerns and other business concerns eligible under (1) above will participate in the set-aside in the following order of priority:

Group 1. LSA concerns which are also small business concerns. A concern in this group which has received an award on the non-set-aside portion of an item shall first be requested to offer the same percentage of the set-aside portion. If a percentage of the set-aside portion of the item remains to be awarded, a drawing by lot shall determine the order of priority within this group for negotiations for the balance of the item.

Group 2. Other LSA concerns. If a quantity of an item remains unawarded after negotiations have been completed with concerns in Group 1, the same procedure shall be followed for Group 2.

Group 3. Small business concerns which are not LSA concerns. If a quantity of an item remains unawarded after negotiations with concerns in Group 2, the same procedure shall be followed for Group 3.

Group 4. Other business concerns which are not LSA concerns. If a quantity of the item remains unawarded after negotiations with concerns in Group 3, the same procedure shall be followed for Group 4.

(3) *Determining the Set-Aside Award Price.*

(i) *General Rule.* Subject to the exception listed in (ii) and (iii) below, awards under the set-aside shall be made at the highest unit price for each item awarded on the non-set-aside, adjusted to reflect transportation, rent-free use of Government property and other cost factors considered in evaluating bids on the non-set-aside portion. When any one of separate quantities offered on an item cannot be accepted without awarding other quantities of that item at higher prices, the weighted average price shall be used to determine the highest unit price for award if the highest award of the non-set-aside portion of an item was made on such a conditioned offer. When offers on the non-set-aside portion tie-in two or more items so that an award cannot be made for a quantity on one item without a concurrent award of a quantity on another item, such tie-in conditions will be disregarded and the price offered for each quantity under each item shall be considered separately. The set-aside award price shall be subject to the same discount terms used in the evaluation of the highest non-set-aside award price.

(ii) *Award Price Involving Foreign End Products (see Part 25 of the FAR and DoD FAR Supplement).*

(A) When the highest award price on the non-set-aside is established by an award for a foreign end product, the award price for the set-aside portion shall be the award price on the non-set-aside as adjusted in evaluating the offer submitting the foreign end product for award under applicable Buy American procedures, except for awards on the set-aside to concerns offering foreign end products, in which case the general rule applies.

(B) Award under the set-aside to a concern offering a foreign end product when the highest award price on the non-set-aside portion is established by a domestic source end product shall be at a price which, after application of the evaluation factors used under Buy American procedures for determining eligibility of a foreign end product for award, is equal to the highest award price on the non-set-aside portion, adjusted to reflect transportation and other factors considered in evaluating the offers.

(iii) *Obtaining Offers and Processing Set-Aside Awards.*

(A) When an unaccepted low offer is not involved: If there is no unaccepted low offer meeting the criteria in (B) below, eligible concerns in the order of priority in (2) above will be requested to offer on the set-aside quantity at the highest unit price awarded on the non-set-aside portion. Concerns may offer less than the total set-aside portion, *provided* that if any part of the set-aside portion is not taken by eligible concerns in the first 3 groups, awards will be made in Group 4 at prices no higher than the lowest price awarded on the non-set-aside portion.

(B) When an unaccepted low offer is involved: If *a.* a responsive offer is submitted on the non-set-aside portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the non-set-aside portion, but cannot be accepted (e.g., because of "all-or-none," or other quantity limitations, or because the bidder is nonresponsible), and *b.* at the time of negotiation for the set-aside portion, the offer could be accepted (e.g., because the set-aside quantity is large enough that the quantity limitations could be complied with, or because the bidder has now become responsible), then the following procedures shall be followed:

Step One. Eligible concerns (in the order of priority in (2) above), excluding Group 4 firms, will be requested to offer at the adjusted unit price of the unaccepted bid, a quantity of the set-aside portion equal to the quantity of the unaccepted offer.

Step Two. If no eligible concern will offer to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in (2) above), excluding Group 4 firms, shall be requested to offer on any lesser portion at the same price until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

Step Three. Steps Four, Five and Six are applicable to the remaining set-aside portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. *However,* the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at higher prices, unless that concern first accepts a quantity of the set-aside portion equal to the entire quantity of its unaccepted offer, at the adjusted price of its offer.

Step Four. In case there is more than one unaccepted offer which meets the conditions of *a.* and *b. above, Steps One, Two and Three above shall be applied with respect to the quantities of each such offer in turn, from lowest price to highest.*

Step Five. Eligible concerns in the order of priority in (2) above will be requested to offer at the highest unit price awarded on the non-set-aside portion on any quantity of the set-aside portion remaining after Steps One, Two, Three and Four have been completed, *provided* that if any part of the set-aside portion is not taken by eligible concerns in the first 3 groups, awards will be made in Group 4 at prices no higher than the lowest price awarded on the non-set-aside portion.

Step Six. If the entire set-aside portion is not taken by eligible concerns pursuant to Steps One through Five above, the partial set-aside is automatically dissolved as to the unawarded portion and such unawarded portion may be acquired by sealed bidding or negotiation as appropriate, in accordance with existing regulations.

(4) *Determining the Set-Aside Quantity.*

(i) The maximum quantity of an item which may be awarded to any eligible concern shall be determined by applying the percentage of the total non-set-aside portion of an item on which an offer was made to the total quantity of the set-aside portion of that item.

(ii) If a concern offers on two or more items on the non-set-aside portion, but conditions its offer in such a manner that the total of all these quantities may not be awarded, or offers a quantity which, at the option of the Government, may be applied to one or more items, the overall maximum which can be offered on the set-aside portion of the items affected will be determined by applying the percent of the total quantities of these items on the non-set-aside portion that could have been awarded to the total of these items on the set-aside portion.

(iii) Notwithstanding the foregoing, if the entire set-aside portion of an item is not awarded after completion of the above steps, then the unawarded balance shall be offered to those concerns who were previously awarded quantities on the set-aside portion but who were prevented from accepting additional quantities because of the quantity limitations stated above. The unawarded quantity will first be offered to that concern in the first priority which has received the largest quantity of the item. If two or more offerors in the first priority received an identical quantity, a drawing by lot shall determine their priority. If a balance still remains, this procedure shall be repeated with the offerors in each of the original priority groups in turn, to dispose of any balance of the item still remaining.

(c) *Definitions.*

(1) "Labor surplus area" means a geographic area which at the time of award is classified as such by the Secretary of Labor in the Department of Labor "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy 4B and Executive Order 10582."

(2) "Labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in labor surplus areas amount to more than fifty percent (50%) of the contract price.

(3) "Small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is offering on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (CFR Title 13, Section 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting offers in its own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns: *provided,* that this additional requirement does not apply in connection with construction or service contracts.

(d) *Agreement.* The offeror agrees that if awarded a contract as an LSA concern under the set-aside portion of this acquisition, he will perform or cause to be performed by a first tier subcontractor a substantial proportion of the contract in areas classified at the time of award or at the time of performance of the contract as LSA.

(e) *Identification of Areas of Performance.* Each offeror desiring to be considered for award as a LSA concern on the LSA set-aside portion of this acquisition shall identify in Section K of his offer the geographical areas in which he proposes to perform, or cause to be performed a substantial proportion of the contract. If the Department of Labor classification of any such area changes after the offeror has submitted his offer, the offeror may change the areas in which he proposes to perform, *provided,* that he so notifies the Contracting Officer before award of the LSA set-aside portion. Such offerors are instructed to insert in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" in Section K of this solicitation, the address(es) where costs incurred on account of manufacturing or production (by offeror or first tier subcontractor) will amount to more than fifty percent (50%) of the contract price.

CAUTION: Failure to list the location of manufacture or production and the percentage of cost to be incurred at each location in the space provided in the clause entitled "Eligibility for Preference as a Labor Surplus Area Concern" set forth in Section K of the solicitation will preclude consideration of the offeror as an LSA concern.

(f) *Requirements Contract.* Only one award will be made for each item or sub-item of the non-set-aside portion and only one award will be made for each item or sub-item of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-set-aside Contractor and the set-aside Contractor to whom the awards are made.

(End of clause)

252.222-7000 [Reserved]

252.222-7001 [Reserved]

252.222-7002 Restrictions on Employment of Personnel.

As prescribed in 222.7202, insert the following clause:

RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (JAN 1986)

(a) The Contractor shall employ, for the purposes of performing that portion of the contract work in the State of (*insert appropriate state*), individuals who are residents of the state, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in each subcontract.

(End of clause)

252.223-7000 [Reserved]

252.223-7001 Safety precautions for ammunition and explosives.

As prescribed in 223.7002(a), insert the following clause in solicitations and contracts.

SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (MAR 1988)

(a) The term "ammunition and explosives" means liquid and solid propellants and explosives, pyrotechnics, incendiaries and smokes in any of the following: bulk form, ammunitions, rockets, missiles, warheads, devices and components thereof, except for wholly inert items.

(b) The Contractor shall comply with the DoD Contractors' Safety Manual for Ammunition and Explosives (DoD Manual 4145.26-M) (the manual) in effect on the date of the solicitation for this contract, and any other additional requirements included in the schedule of the contract. The Contractor shall allow authorized Government representatives to evaluate safety programs, implementation, and facilities and, in this respect, shall allow the Government access to Contractor facilities, personnel and safety program documentation.

(c) If the Contracting Officer notifies the Contractor of any noncompliance with the manual or schedule provisions, the Contracting shall take immediate steps to correct the noncompliance. Within thirty (30) days (or such other period as the Contracting Officer may direct) from the date of notification, the Contractor shall inform the Contracting Officer of the results of the corrective actions taken. Costs incurred by the Contractor to correct noncompliances with the manual will not, unless otherwise specified within the contract, be reimbursable.

(d) If the Contractor has been notified of a noncompliance and fails or refuses to take corrective action within the time specified by the Contracting Officer, the Contractor may be directed to cease performance on all or part of this contract until the Contracting Officer determines that satisfactory corrective action has been taken. The Contracting Officer may at any time remove Government personnel whenever the Contractor is in noncompliance with the safety requirements of this clause. Either action by the Contracting Officer shall not entitle the Contractor to an adjustment of the contract price or the delivery or performance schedule unless it is later determined that the Contractor had in fact complied with the manual or schedule provisions. In such a case, an equitable adjustment will be made in accordance with the procedures provided for in the clause of this contract entitled "Changes".

(e) The Contractor shall immediately notify the Contracting Officer after a mishap involving ammunition or explosives. The Contractor shall also, in accordance with this contract or as required by the Contracting Officer, conduct an investigation and submit a written report of the mishap to the Contracting Officer.

(f) Neither the requirements of this clause, nor any act or failure to act by the Government in surveillance of this contract, shall affect or relieve the Contractor of responsibility for the safety of the Contractor's personnel and property, for the safety of the Government's personnel and property, and for the safety of the general public in connection with the performance of this contract.

(g) The frequency or number of Government inspections and the degree of surveillance which the Government exercises with respect to the enforcement of the contract terms and conditions is a matter solely within the discretion of the Government, and does not relieve the Contractor of responsibility for performance of the contract. Nor shall any act or failure to act by the Government in surveillance or enforcement of this contract impose or add to any liability of the Government. The Contractor is contractually responsible for ensuring subcontractor compliance with all contract safety requirements and will determine the method by which the adequacy of this compliance is verified. Government safety surveys of subcontractor facilities are performed in order to prevent the occurrence of any mishap which would endanger the safety of DoD personnel or otherwise adversely impact upon the Government's contractual interests.

(h) The Contractor shall insert this clause, including this paragraph (h), with appropriate changes in the designation of the parties, in every subcontract hereunder which involves ammunition or explosives as defined in paragraph (a) above, except for: subcontracts for inert components containing no explosives, propellants, or pyrotechnics or subcontracts for flammable liquids, acids, powdered metals or other materials having fire or explosive characteristics unless the subcontractor is using or incorporating these materials for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition and explosive and item, or a weapon system. Such clause shall include a provision allowing authorized Government safety representatives to evaluate subcontractor safety programs, implemenation, and facilities as determined necessary. NOTE: All safety communiques from the Government Contracting Officer or authorized representative will be to the prime Contractor, although copies may be furnished to the subcontractor involved. Prime contractors shall change references to the "Government" to cite the name of the prime Contractor while assuring that the subcontractor(s) understand and agree to the Government's right to access to review compliance with contract safety requirements. In addition, the prime Contractor or higher level subcontractors shall include provisions to allow direction to cease performance of the subcontract as a result of a serious uncorrected or recurring safety deficiency potentially causing an imminent hazard to DoD personnel, property or contract performance.

(i) The Contractor shall notify the Contracting Officer, or authorized representative, prior to issuing any subcontract when it involves ammunition or explosives. In the event that the proposed subcontract represents a change in place of performance, the Contractor shall request approval for such change in accordance with the clause of this contract entitled "Change in Place of Performance—Ammunition and Explosives".

(j) Nothing contained herein shall relieve the Contractor from complying with applicable Federal, state, and local laws, ordinances, codes, and regulations (including the obtaining of licenses and permits) in connection with the performance of this contract.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38205, Sept. 29, 1988]

252.223-7002 Change in place of performance—ammunition and explosives.

As prescribed in 223.7002(c), insert the following clause in solicitations and contracts.

CHANGE IN PLACE OF PERFORMANCE—AMMUNITION AND EXPLOSIVES (JUL 1986)

(a) The Offeror must stipulate in the Place of Performance Clause included in this solicitation (FAR 52.214-14 or FAR 52.215.20) information pertinent to the place of performance of all ammunition and explosives work covered by the Safety Precautions for Ammunition and Explosives Clause (DFARS 252.223-7001). Failure to furnish this information with the offer may result in rejection of the offer.

(b) No change in the place(s) of performance shall be permitted between the opening/closing date of the solicitation/Request for Quotation and the award except where time permits and then only upon receipt of the Contracting Officer's written approval.

(c) Any change in place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the Contracting Officer.

(End of clause)

252.223-7003 [Reserved]

252.223-7004 Hazardous material identification and material safety data.

As prescribed at 223.7203(a), insert the following clause in solicitations and contracts.

Hazardous Material Identification and Material Safety Data (Jul 1989)

(a) "Hazardous material", as used in this clause, includes the following:

(1) All items in, or ordinarily cataloged under, the Federal Supply Classes listed in Table I of Appendix A of the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract);

(2) Items having hazardous characteristics in the Federal Supply Classes listed in Table II of Appendix A of the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract);

(3) Any other item to be delivered under this contract which will contain hazardous material or expose Government personnel to those materials.

(b) Each Offeror shall certify as follows: The Offeror certifies that the material to be delivered (____) is (____) is not a hazardous material as defined in paragraph (a) above.

(c) The apparently successful Offeror agrees to submit prior to award a Material Safety Data Sheet meeting the requirements of 29 CFR 1910.1200 (g) and the latest version of Federal Standard No. 313 in effect on the date of this solicitation for all hazardous material(s) described in paragraph (a) above, unless the Offeror certifies in paragraph (b) above that the material is not hazardous. Data shall be submitted on all items included in the offer, whether or not the apparently successful Offeror is the actual manufacturer of these items. Failure to comply with this requirement shall result in the Offeror's being considered nonresponsible and ineligible for award.

(d) If there is a change in the composition of the item(s) after award or a revision to Federal Standard No. 313 which renders incomplete or inaccurate the data submitted under paragraph (c) of this clause or the certification submitted under paragraph (b) of this clause, the Contractor shall promptly notify the Contracting officer and resubmit the data.

(e) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(f) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, state, and local laws, codes, ordinanaces, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(g) Notwithstanding any other clause in this contract, the Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate, and disclose any data to which this clause is applicable. The purposes of this right are to—

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes(s).

(2) That the Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

[54 FR 30747, July 24, 1989]

252.223-7005 Notice of radioactive materials.

As prescribed at 223.7301, insert the following clause in solicitations and contracts:

Notice of Radioactive Materials (APR 1990)

(a) The Contractor shall notify the Contracting Officer or designee, in writing (____) (The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions.) days prior to the delivery of, or prior to completion of any servicing required by this contract of items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 CFR, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcurie(s) per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall (1) be submitted in writing; (2) contain a certification that the quantity of activity, characteristics, and composition of the radioactive material has not changed; and (3) cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcurie per gram or activity per item equals or exceeds 0.02 microcuries and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a).

(End of clause)

[54 FR 30747, July 24, 1989, as amended at 55 FR 19081, May 8, 1990; 55 FR 30160, July 24, 1990]

252.223-7500 Drug-free work force.

As prescribed in 223.7504, insert the following clause:

DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions. "Illegal drugs," as used in this clause, means controlled substances included in Schedule I and II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

"Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, Contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) below that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, the efficient use of Contractor resources, and the risks to public health, safety, national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing—

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When a employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of Subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs," (53 FR 11980 (April 11, 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such time as the contractor, in accordance with procedures established by the contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing programs shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

[53 FR 37765, Sept. 28, 1988]

252.225-7000 Buy American—balance of payments program certificate.

As prescribed at 225.109(a)(S-70), insert the following provision:

BUY AMERICAN—BALANCE OF PAYMENTS PROGRAM CERTIFICATE (OCT 1980)

(a) The offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in the clause entitled "Buy American Act and Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

EXCLUDED END PRODUCTS

Line item No	Country of origin
(List as necessary)	

(b) Offers will be evaluated by giving certain preferences to domestic end products and foreign qualifying country end products over foreign nonqualifying country end products. In order to obtain such preferences in the evaluation of each excluded end product listed in (a) above, it is necessary that offerors identify and certify, below, those excluded end products identified above that are qualifying country end products or they will be deemed nonqualifying country end products. Offerors must certify by inserting the applicable line item numbers in the appropriate brackets:

(i) The offeror certifies that the following supplies qualify as "participating country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program."

____

(Insert line item No.)

(ii) The offeror certifies that the following supplies qualify as "FMS/offset arrangement country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program," if the Government makes the necessary waivers.

____

(Insert line item No.)

(iii) The offeror certifies that the following supplies qualify as "defense cooperation country end products" as that term is defined in the clause entitled "Buy American Act and Balance of Payments Program."

____

(Insert line item No.)

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(End of Certificate)

252.225-7001 Buy American Act and the balance of payments program.

As prescribed at 225.109(d)(S-70), insert the following clause:

BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (APR 1985)

(a) This clause implements the Buy American Act (41 U.S.C. section 10a-d) and the Department of Defense Balance of Payments Program by providing a preference to domestic end products over foreign end products, except for certain foreign end products which meet the requirements for classification as qualifying country end products. For the purpose of this clause—

(i) "Components" means those articles, materials, and supplies directly incorporated into end products.

(ii) "Qualifying country component" means (A) an item mined, produced, or manufactured in a participating country or in an FMS/Offset arrangement country when the applicable D&F has been made waiving the Buy American Act restrictions; or (B) any item listed in a defense cooperation country agreement.

(iii) "End products" means those articles, materials, and supplies to be acquired for public use under the contract. As to a given contract, the end products are the items to be delivered to the Government, as specified in the contract, including supplies to be acquired by the Government for public use in connection with service contracts but excluding installation and other services to be performed after delivery.

(iv) "Domestic end product" means (A) an unmanufactured end product which has been mined or produced in the United States, or (B) an end product manufactured in the United States if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (A) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (B) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(v) "Foreign end product" means an end product other than a domestic end product.

(vi) "Qualifying country end product" means (A) a participating country end product; (B) an FMS/Offset arrangement country end product when the applicable Determination and Findings has been made waiving the Buy American Act restrictions; or (C) a defense cooperation country agreement listed item.

(vii) "Participating country end product" means (A) an unmanufactured end product mined or produced in a participating country, or (B) an end product manufactured in a participating country if the cost of its qualifying country components and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid.

(viii) "FMS/Offset arrangement country end product" means (A) an unmanufactured end product mined or produced in an FMS/Offset arrangement country, or an end product manufactured in an FMS/Offset arrangement country if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid. To obtain the waivers necessary to accord preferential treatment for an FMS/Offset arrangement country end product, see the procedures at DoD FAR Supplement 225.7310(c)(2)(i).

(ix) "Defense cooperation country end product" means an item listed in the defense cooperation country agreement and produced in that country.

(b) The Contractor agrees that there will be delivered under this contract only domestic end products *unless*, in its offer, it specified delivery of foreign end products in the clause entitled "Buy American Act and Balance of Payments Program Certificate." An offer certifying that a qualifying country end product will be supplied requires the Contractor to supply a qualifying country end product or, at the Contractor's option, a domestic end product. An offer based on supplying a nonqualifying country end product, if accepted, will permit the Contractor to supply a product without regard to the requirements of this clause.

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(d) Generally, when the Buy American Act is applicable, each nonqualifying country offer of defense equipment shall be adjusted for the purpose of evaluation by: (i) Adding 50% of the offer, exclusive of duty; (ii) adding 6% of the offer, inclusive of duty, if a domestic offer is from a large business that is not a labor surplus area concern; or (iii) adding 12% of the offer, inclusive of duty, if the domestic offer is from a small business concern or any labor surplus area concern. Evaluation will be inclusive or exclusive of duty whichever results in the greater evaluated price. See DoD FAR Supplement 225.1 for procedures and exceptions.

(e) Generally, when the Balance of Payments Program applies, each nonqualifying country offer of defense equipment shall be adjusted for the purpose of evaluation by increasing the offer by 50%. See DoD FAR Supplement 225.3 for procedures and exceptions.

(End of clause)

252.225-7002 Qualifying country sources as subcontractors.

As prescribed at 225.109(d)(S-72), insert the following clause:

QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (OCT 1980)

No qualifying country source (DoD FAR Supplement 225.001), subject to the restrictions set forth in DoD FAR Supplement Subpart 225.74, or U.S. source is to be precluded from competing for subcontracts.

(End of clause)

252.225-7003 Nondomestic construction materials.

As prescribed at 225.205(S-70), insert the following clause:

NONDOMESTIC CONSTRUCTION MATERIALS (OCT 1966)

The requirements of the clause of this contract entitled "Buy American Act" do not apply to the items set forth below.

(Insert list here)

(End of clause)

252.225-7004 Identification of expenditures in the United States.

(a) As prescribed at 225.305(c), insert the following clause:

IDENTIFICATION OF EXPENDITURES IN THE UNITED STATES (OCT 1966)

(a) On each invoice, voucher, or other request for payment under this contract, the Contractor shall identify that part of the requested payment which represents estimated expenditures in the United States. Identification shall consist of stating the full amount of the payment requested, subdivided into the following categories:

1. United States end products—expenditures for material and equipment manufactured or produced in the United States, excluding transportation;
2. United States services—expenditures for services performed in the United States, including charges for overhead, other indirect costs, and profit;
3. Transportation on United States carriers—expenditures for transportation furnished by United States flag, ocean, surface, and air carriers; and
4. Expenditures not identified under 1, 2, and 3 above.

(b) If this contract is principally for supplies or if the Contractor is not an incorporated concern incorporated in the United States, or an unincorporated concern having its principal place of business in the United States, the amounts identified under (a)1, (a)2, and (a)3 above will be limited to payments made pursuant to the requirements either of the "United States Products and Services" clause, if any, or of any other specific provision of this contract that obligates the Contractor to procure certain materials, equipment, transportation, or services from United States sources.

(c) The identification of expenditures required under (a) above may be expressed either as dollar amounts or as percentages applicable to the total amount of the request for payment.

(d) The identification will be based on reasonable estimates by the Contractor. Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the United States Government any right to audit the Contractor's books or records.

(End of clause)

252.225-7005 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.

As prescribed at 225.407(a)(1), insert the following provision:

BUY AMERICAN—TRADE AGREEMENTS—BALANCE OF PAYMENT PROGRAM CERTIFICATE (MAY 1986)

(a) The Offeror hereby certifies that eac end product, except the end products liste below, is a domestic end product (as define in the clause entitled "Buy American Ac Trade Agreements Act, and Balance of Pa ments Program"), and that components unknown origin have been considered have been mined, produced, or manufa tured outside the United States or a qualifying country.

EXCLUDED END PRODUCTS

Line item No	Country of origin
(List as necessary)	

(b) Offers will be evaluated by giving ce tain preferences to domestic end product qualifying country end products, designate country end products and Caribbean Basi country end products over other end prod ucts. In order to obtain such preferences i the evaluation of each excluded end produ listed in (a) above, it is necessary that offe ors identify and certify, below, those ex cluded end products identified above tha are qualifying country end products, desig nated country end products, or Caribbea Basin country end products. Products whic are not identified and certified below wi not be deemed qualifying country end prod ucts, designated country end products, o Caribbean country end products. Offeror must certify by inserting the applicable lin item numbers in the appropriate brackets.

(i) The offeror certifies that the followin supplies qualify as " participating countr end products" as that term is defined in th clause entitled "Buy American Act, Trad Agreements Act, and Balance of Paymen Program".

____

(Insert line item no.)

(ii) The offeror certifies that the followin supplies qualify as "FMS/Offset arrange ment country end products" as that term i defined in the clause entitled "Buy Amer can Act, Trade Agreements Act, and Ba ance of Payments Program," if the Gover ment makes the necessary waivers.

____

(Insert line item no.)

(iii) The offeror certifies that the follow ing supplies qualify as "defense cooperatio country end products" as that term is de fined in the clause entitled "Buy Americ

Act, Trade Agreements Act, and Balance of Payments Program."

____

(Insert line item no.)

(iv) The offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and Balance of Payments Program".

____

(Insert line item no.)

(v) The Offeror certifies that the following supplies qualify as "Caribbean Basin country end products" as that term is defined in the clause entitled "Buy American Act, Trade Agreements Act, and the Balance of Payments Program."

____

(Insert line item no.)

(c) Offers will be evaluated in accordance with the policies and procedures of FAR Part 25 and DoD FAR Supplement Part 225.

(End of Certificate)

252.225-7006 Buy American Act, Trade Agreements Act, and The Balance of Payments Program.

As prescribed at 225.407(a)(2), insert the following clause:

BUY AMERICAN ACT, TRADE AGREEMENTS ACT, AND THE BALANCE OF PAYMENTS PROGRAM (MAY 1986)

(a) This clause implements the Buy American Act (41 U.S.C. section 10a-d), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), and the Department of Defense Balance of Payments Program and the Caribbean Basin Initiative as provided for in Executive Order 12260, by providing a preference to domestic end products over foreign end products, except for certain foreign end products which meet the requirements for classification as qualifying country end products, designated country end products or Caribbean Basin end products. For the purpose of this clause—

(i) "Components" means those articles, materials, and supplies incorporated directly into the end products.

(ii) "Qualifying country component" means (A) an item mined, produced, or manufactured in a participating country or in an FMS/Offset arrangement country when the applicable D&F has been made waiving the Buy American Act restrictions; or (B) any item listed in a defense cooperation country agreement.

(iii) "End product" means those articles, materials, and supplies to be acquired for public use under the contract.

(iv) "Domestic end product" means (A) an unmanufactured end product which has been mined or produced in the United States, or (B) an end product manufactured in the United States if the cost of its qualifying country components, and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate may be issued). A component shall also be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind (A) determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (B) as to which the Secretary concerned has determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act.

(v) "Foreign end product" means an end product other than a domestic end product.

(vi) "Qualifying country end product" means (A) a participating country end product; (B) an FMS/Offset arrangement country end product when the applicable Determination and Findings has been made waiving the Buy American Act restrictions; or (C) a defense cooperation country agreement listed item.

(vii) "Participating country end product" means (A) an unmanufactured end product mined or produced in a participating country, or (B) an end product manufactured in a participating country if the cost of its qualifying country components and its components mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid.

(viii) "FMS/Offset arrangement country end product" means (A) an unmanufactured end product mined or produced in an FMS/Offset arrangement country, or (B) an end product manufactured in an FMS/Offset arrangement country if the cost of its qualifying country components and its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and any duty whether or not duty is, in fact, paid. To obtain the waivers necessary to accord preferential treatment for an FMS/Offset arrangement country end product, see the procedures at DoD FAR Supplement 225.7310(c)(2)(i).

(ix) "Defense cooperation country end product" means an item listed in the defense cooperation country agreement and produced in that country.

(x) "Designated country end product" means an article that (A) is wholly the growth, product, or manufacture of the designated country, or (B) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; *Provided*, That the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

(xi) "Caribbean Basin country end product" means (A) an article that (*1*) is wholly the growth, product, or manufacture of a Caribbean Basin country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (*2*) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; *Provided*, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. (B) The term *excludes* products which are excluded from duty-free treatment for Caribbean countries under the Caribbean Basin Economic Recovery Act under 19 U.S.C. 2703(b). These exclusions presently consist of (*1*) textiles and apparel articles which are subject to textile agreements; (*2*) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under title V of the Trade Act of 1974; (*3*) tuna, prepared or preserved in any manner in airtight containers; (*4*) petroleum, or any product derived from petroleum, and (*5*) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country to which Harmonized Tariff Schedule column 2 rates of duty apply.

(b) The Contractor agrees that there will be delivered under this contract only domestic end products *unless*, in its offer, it specified delivery of foreign end products in the clause entitled Buy American Act, Trade Agreements Act, and Balance of Payments Program Certificate. An offer ce
that a qualifying country end pro
designated country end product, or
bean Basin country end product will
plied requires the Contractor to su
qualifying country end product, a d
ed country end product, or a Ca
Basin country end product whicheve
tified, or, at the Contractor's optio
mestic end product. An offer based
plying a nonqualifying country end
if accepted, will permit the Contra
supply a product without regard to
quirements of this clause; however, C
tors may not supply an end product
DoD FAR Supplement 225.403(S-70
total value at or above dollar
) (Contracting Officers shall ins
dollar threshold amount referenced
25.402(a) distributed through agenc
dures in accordance with FAR 25
from a country not listed at FAR
except as provided at DoD FAR Sup
225.402(b).

(c) Offers will be evaluated in acc
with the policies and procedures
Part 25 and DoD FAR Supplement

(d) Generally, when the Buy A
Act is applicable, each nonqualifyin
try offer of defense equipment shal
justed for the purpose of evaluatio
Adding 50% of the offer, exclusive
(ii) adding 6% of the offer, inclusive
if a domestic offer is from a large
that is not a labor surplus area con
(iii) adding 12% of the offer, incl
duty, if the domestic offer is from
business concern or any labor surp
concern. Evaluation will be inclusiv
clusive of duty whichever results
greater evaluated price. See DoD F
plement 225.1 for procedures and
tions.

(e) Generally, when the Balance
ments Program applies, each nonqu
country offer of defense equipment
adjusted for the purpose of evalua
increasing the offer by 50%. See D
Supplement 225.3 for procedures an
tions.

(f) Generally, when the Trade
ments Act applies, offers of designa
Caribbean Basin country end produ
be evaluated without the Buy Ameri
and Balance of Payments Program
justments discussed in paragraphs
(e) above. See FAR and DoD FAR
ment 225.4 for procedures and excep

(End of clause)

[51 FR 46335, Dec. 23, 1986, as ame
55 FR 30160, July 24, 1990]

252.225-7007 Supplies to be accorded duty-free entry.

As prescribed at 225.605, insert the following clause:

SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY (APR 1988)

In accordance with paragraph (a) of the clause entitled "Duty-Free Entry," and/or paragraph (b) of the clause entitled "Duty-Free Entry—Qualifying Country End Products and Supplies, the following supplies are hereby identified as supplies to be accorded duty-free entry:

____

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38239, Sept. 29, 1988]

252.225-7008 Duty-free entry—qualifying country end products and supplies.

As prescribed at 225.605, insert the following clause:

DUTY-FREE ENTRY—QUALIFYING COUNTRY END PRODUCTS AND SUPPLIES (APR 1990)

(a) The requirements of this clause apply to this contract and subcontracts, which term includes purchase orders, that involve supplies to be accorded duty-free entry, whether—

(1) Placed directly with a foreign concern as a prime contract; or

(2) As a subcontract or purchase order under a contract placed with a domestic concern.

(b) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to—

(1) All end items which constitute "qualifying country end products" (as defined in DoD FAR Supplement 225.001) to be delivered under this contract; and

(2) All supplies (including, without limitation, raw materials, components, and intermediate assemblies) produced or made in qualifying countries, which are to be incorporated in the end items to be delivered under this contract; *Provided*, That such end items are manufactured in the United States or in a qualifying country, except supplies imported into the United States prior to the date of this contract or, in the case of supplies imported by a first or lower tier subcontractor hereunder, prior to the date of the subcontract.

(c) Unless the Contracting Officer otherwise agrees, duty-free entry certificates will not be furnished under fixed-price contracts which were based on supplying a domestic end item or component unless the Contractor agrees to negotiate an appropriate reduction in contract price if the Contractor, subsequent to award, decides to furnish a qualifying country end product or component.

(d) The Contractor warrants that all such qualifying country supplies, for which duty-free entry is to be claimed, are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed, or authorized by the Contracting Officer.

(e) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of qualifying country end products as to which the shipping documents bear the notation specified in paragraph (f) below, except as the Contractor may otherwise agree.

(f) All shipping documents submitted to Customs, covering foreign end products or supplies for which duty-free entry certificates are to be issued in accordance with this clause, shall (1) consign the shipments to the appropriate (i) Military Department in care of the particular Contractor, including the Contractor's delivery address, or (ii) the appropriate military installation; and (2) bear the following information:

(i) prime contract number plus delivery order, if applicable;

(ii) number of the subcontract/purchase order for foreign supplies, if applicable;

(iii) identification of carrier;

(iv) the notation: "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE Duty-Free Entry to be claimed pursuant to Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30, Harmonized Tariff Schedule of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify Commander, Defense Contract Administration Services Region (DCASR) New York, ATTN: Chief, Customs Division, International Logistics Office, 201 Varick Street, New York, New York 10014, for execution of Customs Forms 7501, 7501A, or 7506 and any required duty-free entry certificates." (Note: The above notation shall be used only for direct shipments to a U.S. military installation. In cases where the shipment will be consigned to other than a military installation, e.g., a domestic contractor's plant, the shipping document notation shall be altered to insert the name and address of the contractor, agent or broker who will notify Commander, Defense Contract Administration Services

Region (DCASR) New York, for execution of the duty-free entry certificates.)

(v) gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight);

(vi) estimated value in U.S. dollars; and

(vii) Activity Address Number of the Contract Administration Office (CAO) actually administering the prime contract, e.g., for DCASMA Dayton, DLA8DP.

(g) Preparation of Customs Forms.

(1) Except for shipments consigned to a military installation, the Contractor shall prepare, or authorize an agent to prepare, any customs forms required for the entry of foreign supplies in connection with DoD contracts into the United States, its possessions, or Puerto Rico. The completed customs forms shall be submitted to the District Director of Customs with a copy to DCASR NY for execution of any required duty-free entry certificates. Shipments consigned directly to a military installation will be released in accordance with sections 10.101 and 10.102 of the U.S. Customs Regulations.

(2) For shipments containing both supplies which are to be accorded duty-free entry and supplies which are not, the Contractor shall identify on the customs forms those items which are eligible for duty-free entry.

(h) The Contractor agrees to prepare (if this contract is placed direct with a foreign supplier) or to instruct the foreign supplier to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry and to consign the shipment as specified in (f) above, and to mark the exterior of all packages as follows:

(1) "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE" and

(2) the Activity Address Number applicable to the contract administration office actually administering the prime contract.

(i) The Contractor agrees to ensure that the Contracting Officer administering the prime contract is notified in writing of any purchase under the contract of qualifying country supplies to be accorded duty-free entry that are to be imported into the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. Such notice shall be furnished to the CAO immediately upon the award to the qualifying country supplier. The notice shall identify:

(1) Prime contract number plus delivery order number if applicable;

(2) Total dollar value of the prime contract or delivery order;

(3) Expiration date of the prime contract or delivery order;

(4) Foreign supplier name;

(5) Number of the subcontract/purchase order for foreign supplies;

(6) Total dollar value of the subcontract for foreign supplies;

(7) Expiration date of the subcontract for foreign supplies;

(8) List of items purchased; and

(9) Certification by the purchaser of foreign supplies: I certify that all such supplies for which duty-free entry is to be claimed are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer;

(10) The qualifying country; and

(11) The scheduled delivery date(s).

(j) This clause shall not apply to purchases of qualifying country supplies in connection with this contract if (1) such qualifying country supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with its commercial business; and (2) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(k) The Contractor agrees to insert the substance of this clause, including this paragraph (k) in all subcontracts for supplies hereunder. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry to be claimed pursuant to this clause. The Contractor also agrees to ensure that the name and address of the Contracting Officer administering the prime contract (name and address of the CAO cognizant of the prime contract), and its Activity Address Number (Appendix N of the DoD FAR Supplement), and the information required by (i) (1), (2) and (3) above is included in applicable subcontracts.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended 55 FR 19081, May 8, 1990]

252.225-7009 Preference for certain domestic commodities.

As prescribed at 225.7002(b), insert the following clause:

PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (APR 1990)

The Contractor agrees that there will be
delivered under this contract only such arti-
cles of food, clothing, tents, tarpaulins,
covers, cotton and other natural fiber prod-
ucts, woven silk or woven silk blends, spun
silk yarn for cartridge cloth, synthetic
fabric, coated synthetic fabric, canvas prod-
ucts, or wool (whether in the form of fiber
or yarn or contained in fabrics, materials, or
manufactured articles), or any item of indi-
idual equipment manufactured from or
ontaining such fibers, yarns, fabrics, or ma-
erials, which have been grown, reprocessed,
eused, or produced in the United States, its
ossessions, or Puerto Rico: *Provided*, That
i) this clause shall have no effect to the
xtent that the Secretary has determined
hat a satisfactory quality and sufficient
uantity of such articles cannot be acquired
s and when needed at U.S. market prices;
ii) nothing herein shall preclude the deliv-
ry, under this contract, of foods which
ave been manufactured or processed in the
nited States, its possessions, or Puerto
ico; and (iii) this clause shall not apply to
hemical warfare protective clothing pro-
uced in qualifying countries (see DOD
AR Supplement part 225).

(End of clause)

55 FR 19081, May 8, 1990]

52.225-7010 Domestic wool preference.

As prescribed at 225.7002(c)(3),
nsert the following provision:

OMESTIC WOOL PREFERENCE (JUN 1988)

(a) It is Congressional policy that, in De-
artment of Defense procurements, prefer-
nce shall be given to wool grown, reproc-
ssed, reused, or produced in the United
tates, its possessions, or Puerto Rico, to
e extent that articles containing such
ool can be procured as and when needed at
nited States market prices.

(b) If, on the date of opening of bids or
e closing date of requests for proposals,
e average market price of domestic wool
usable grades (as reported by grade in the
ur issues of the Department of Agricul-
re "Market News" immediately preceding
e date of bid opening or the closing date
requests for proposals) is not more than
n percent (10%) above the average of the
ices (for usable grades) which reflect the
rrent incentive price established by the
cretary of Agriculture, award will be
de only on bids or proposals offering do-
stically produced articles of which the
ol component is one hundred percent
0%) domestic wool; *Provided*, That such bids or proposals are considered reasonable and otherwise acceptable.

(c) If, on the date of opening of bids or the closing date of requests for proposals, the average market price of domestic wool of usable grades (as reported by grade in the four issues of the Department of Agriculture "Market News" immediately preceding the date of bid opening or the closing date of requests for proposals) is more than ten percent (10%) above the average of the prices (for usable grades) which reflect the current incentive price, or to the extent that the Government's requirement cannot be filled by awards based on paragraph (b) hereof, there will be added to each bid or proposal offering articles of which the wool component is one hundred percent (100%) foreign wool, an evaluation factor of $______ per yard or per item, and there will be added to each bid or proposal offering articles of which the wool component is a blend of domestic and foreign wool that part of the evaluation factor which is in direct proportion to the percentage of foreign wool to be used, and award will be made to the low acceptable bidder.

(d) For the purposes of (b) and (c) above, the average market price of domestic wool of usable grades shall be the average market price of the representative grades set forth in DoD FAR Supplement 225.7002(c)(6) within that one of the categories therein set forth which includes wool which would meet the specifications, and the average of the prices which reflect the current incentive price established by the Secretary of Agriculture shall be the average of the prices set forth in 225.7002(c)(6) for that category.

(e) While bids or proposals offering articles using foreign wool may be considered and evaluated, as stated above, all stages of manufacturing of wool (whether foreign or domestic) must be performed in the United States, its possessions, or Puerto Rico, as required by the contract clause entitled "Preference for Certain Domestic Commodities." This requirement is satisfied as to wool noils, reprocessed or reused wool if the reprocessing (i.e., garnetting or combing) and ensuing manufacture is performed in the United States, its possessions, or Puerto Rico.

(f) The Secretary has determined that, to the extent that any foreign wool is used under an award made pursuant to paragraph (c) hereof, a satisfactory quality and sufficient quantity of domestic wool cannot be procured as and when needed at United States market prices.

(g) The evaluation factor is subject to adjustment at the opening/closing date for receipt of bids/proposals in accordance with DoD Federal Acquisition Regulation Supplement 225.7002(c)(6).

(End of provision)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38248, Sept. 29, 1988]

252.225-7011 Preference for domestic specialty metals (major programs).

As prescribed at 225.7002(d)(1), insert the following clause:

PREFERENCE FOR DOMESTIC SPECIALTY METALS (MAJOR PROGRAMS) (OCT 1980)

(a) The Contractor agrees that any specialty metals (as hereinafter defined) incorporated in articles delivered under this contract will be melted in the United States, its possessions, or Puerto Rico; *Provided*, that this clause shall have no effect to the extent that (i) the Secretary or his designee has determined that a satisfactory quality and sufficient quantity of such articles cannot be acquired as and when needed at U.S. market prices; (ii) the acquisition is for a qualifying country end product; or (iii) the acquisition is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements.

(b) For the purposes of this clause, the term "specialty metals" means:

(i) Steels, where the maximum alloy content exceeds one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of ten percent (10%);

(iii) titanium and titanium alloys; or

(iv) zirconium and zirconium base alloys.

(c) The Contractor agrees to include this clause, including this paragraph (c), in every subcontract or purchase order issued hereunder, unless he knows that the item being purchased contains no specialty metals.

(End of clause)

252.225-7012 Preference for domestic specialty metals.

As prescribed at 225.7002(d)(2), insert the following clause:

PREFERENCE FOR DOMESTIC SPECIALTY METALS (OCT 1980)

(a) The Contractor agrees that any specialty metals (as hereinafter defined) furnished by it or purchased by it for direct incorporation in any article delivered to the Government under this contract shall have been melted in the United States, its possessions, or Puerto Rico; *Provided*, That this clause shall have no effect to the extent that (i) the Secretary or his designee determines that a satisfactory quality and sufficient quantity of such articles cannot be acquired as and when needed at U.S. market prices; (ii) the acquisition is for a qualifying country end product; or (iii) the acquisition is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S firms under approved programs serving defense requirements.

(b) For the purposes of this clause, the term "specialty metals" means:

(i) steels, where the maximum alloy content exceeds one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of ten percent (10%);

(iii) titanium and titanium alloys; or

(iv) zirconium and zirconium base alloys.

(End of clause)

252.225-7013 Preference for domestic hand or measuring tools.

As prescribed at 225.7003, insert the following clause:

PREFERENCE FOR DOMESTIC HAND OR MEASURING TOOLS (APR 1984)

The Contractor agrees that there will be delivered under this contract only such hand or measuring tools as have been produced in the United States or its possessions.

(End of clause)

252.225-7014 Duty-free entry—additional provisions.

As prescribed at 225.605, insert the following clause:

DUTY-FREE ENTRY—ADDITIONAL PROVISIONS (APR 1990)

(a) The requirements of this clause supplement the clause of this contract entitled Duty-Free Entry, and both of these clauses apply to this contract and subcontracts which term includes purchase orders, that involve supplies to be accorded duty-free entry whether—

(1) Placed directly with a foreign concern as a prime contract; or

(2) As a subcontractor purchase order under a contract placed with a domestic concern.

(b) Notification for Supplies not Previously Identified. The Contractor shall send the notification required by paragraph (b)(1) of the Duty-Free Entry clause contained in this contract to the Contracting Officer administering this contract.

(c) Notification Applicable to All Foreign Supplies. In addition to any data required by paragraph (b)(1) of the Duty-Free Entry clause, the Contractor shall furnish the following for all foreign supplies to be imported pursuant to paragraphs (a) or (b) of the Duty-Free Entry clause. This information must be furnished to the Contracting Officer administering the prime contract immediately upon award of any contract or subcontract involving supplies to be accorded duty-free entry.

(1) Prime contract number plus delivery order number, if applicable;

(2) Total dollar value of the prime contract or delivery order;

(3) Expiration date of the prime contract or delivery order;

(4) Foreign supplier name;

(5) Number of the subcontract/purchase order for foreign supplies;

(6) Total dollar value of the subcontract for foreign supplies;

(7) Expiration date of the subcontract for foreign supplies;

(8) List of items purchased; and,

(9) Certification by the purchaser of foreign supplies: I certify that all such supplies for which duty-free entry is to be claimed are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage) are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(d) Inclusion in Subcontracts. The Contractor agrees to incorporate the substance of this clause, including this paragraph, in any subcontract (including purchase orders) n accordance with paragraph (i) (eye) of he Duty-Free Entry clause of this contract. The Contractor agrees to ensure that the ame and address of the Contracting Offier administering the prime contract (name nd address of the CAO cognizant of the rime contract and its Activity Address umber (Appendix N of the DoD FAR Suplement)) and the information required by c) (1), (2), and (3) above are included in aplicable subcontracts.

(e) Shipping Documents. For the purpose of properly completing the shipping document instructions as required by paragraph (f) of the Duty-Free Entry clause, the Contractor shall insert Defense Contract Administration Services Region (DCASR) New York, ATTN: Chief, Customs Division, International Logistics Office, 201 Varick Street, New York, New York 10014, as the cognizant contract administration office (for paragraph (f) only) in those cases when the shipment is consigned directly to a military installation. In cases when the shipment will be consigned to other than a military installation, e.g. a domestic contractor's plant, the shipping document notation required by paragraph (f) of the clause shall be altered to insert the name and address of the Contractor, agent or broker who will prepare the customs documentation in accordance with applicable customs directives in anticipation of the execution of the Duty-Free Entry certificates. In either case, the shipping documents will contain the following items in addition to those required by paragraph (f) of the Duty-Free Entry clause:

(1) If applicable, delivery order number on the Government prime contract;

(2) Number of the subcontract/purchase order for foreign supplies, if applicable;

(3) Activity Address Number of the Contract Administration Office (CAO) actually administering the prime contract, e.g., for DCASMA Dayton, DLA8DP.

(f) Preparation of Customs Forms. Except for shipments consigned to a military installation, the Contractor shall prepare, or authorize an agent to prepare, any customs forms required for the entry of foreign supplies in connection with DoD contracts into the United States, its possessions, or Puerto Rico. The completed customs forms shall be submitted to the District Director of Customs with a copy to DCASR NY for execution of any required duty-free entry certificates. For shipments containing both supplies which are to be accorded duty-free entry and supplies which are not, the Contractor shall identify on the customs forms those items which are eligible for duty-free entry in accordance with the provisions of the Duty-Free Entry clause contained in this contract. Shipments consigned directly to a military installation will be released in accordance with sections 10.101 and 10.102 of the U.S. Customs Regulations.

(g) Exterior Markings. The Contractor shall ensure that all exterior containers are marked in accordance with paragraph (g) of the Duty-Free Entry clause, including the following additional data:

(1) "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE;"

(2) the Activity Address Number applicable to the contract administration office actually administering the prime contract.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 55 FR 19081, May 8, 1990]

252.225-7015 United States products certificate (Military Assistance Program).

As prescribed at 225.7205(a), insert the following provision:

UNITED STATES PRODUCTS CERTIFICATE (MILITARY ASSISTANCE PROGRAM) (DEC 1962)

To the extent that the Government specifies the items being purchased are in implementation of the Military Assistance Program, the bidder or offeror hereby certifies that each such item furnished will be a United States end product (as defined in the contract clause entitled "United States Products"); that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States; and that he is a domestic concern.

(End of provision)

252.225-7016 United States products (Military Assistance Program).

As prescribed at 225.7205(b), insert the following clause:

UNITED STATES PRODUCTS (MILITARY ASSISTANCE PROGRAM) (DEC 1962)

(a) To the extent that the Government specifies the items being purchased are in implementation of the Military Assistance Program, the Contractor agrees that there will be delivered under this contract only United States end products.

(b) For the purpose of this clause:

(i) "components" means those articles, materials, and supplies, which are directly incorporated in end products.

(ii) "end products" means those articles, materials, and supplies, which are acquired under this contract for public use; and

(iii) a "United States end product" means—

(A) an unmanufactured end product which has been mined or produced in the United States; and

(B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(End of clause)

252.225-7017 Limitation of sales commissions and fees for foreign governments.

As prescribed at 225.7305(f), insert the following clause:

LIMITATION OF SALES COMMISSIONS AND FEES FOR FOREIGN GOVERNMENTS (OCT 1980)

Unless the sales commission and fee have been identified and payment thereof has been approved in writing by the Government of ________ * before contract award, the following provisions, as appropriate, shall apply.

(a) For firm-fixed-price contracts or fixed-price contracts with economic price adjustment:

"The Contractor certifies that the contract price (including any subcontracts awarded hereunder) does not include any direct or indirect costs of sales commissions or fees for contractor sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of ________ *."

(b) For all other types of contracts: "Notwithstanding any other provision of this contract, any direct or indirect costs of sales commissions or fees for contractor (or subcontractor) sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this contract to the Government of ________, shall be considered as an unallowable item of cost under this contract."

* Name of foreign country.

(End of clause)

252.225-7018 Offset arrangement.

As prescribed at 225.7310(c)(4), insert the following clause:

OFFSET ARRANGEMENT (OCT 1980)

(a) The Contractor is responsible under the contract for arranging with representatives of the Government of ________, under ________ **, dated ________, for participation by sources in ________ *, for a minimum of (*percentage or dollar valu* of the value of this prime contract. This offset requirement may be fulfilled either by subcontracts under this contract or through other business the Contractor may choose to place in __________*. (Commercial business will not be considered for duty-free entry.) All contractual arrangements to be entered into in accordance with this clause must be submitted to the Contracting Officer for determination as to whether such arrangements fulfill the offset requirement. Special conditions relating to the offset requirement are as follows:

____

____

(b) The Contractor will provide the following information to the Contracting Officer within 30 calendar days after the completion of each calendar quarter during the term of the contract:

(i) subcontract or other solicitations offered to __________* industry (items, dollar value, date of solicitation, and identification of sources);

(ii) subcontract or orders placed with __________* sources—

(A) item

(B) value

(C) contracting officer

(D) competitive or noncompetitive

(E) date of subcontract

(F) identification of subcontractor

(iii) status of deliveries under subcontracts placed with __________* sources.

(c) None of the provisions of this clause shall relieve the Contractor of the need to comply with the International Traffic in Arms Regulations, the Industrial Security Manual, or other laws and regulations governing foreign acquisition and disclosure of information to foreign nationals.

(d) The substance of this provision shall be placed in all subcontracts awarded to U.S. companies which appear to offer a significant opportunity for lower tier subcontracting with __________* sources under __________**.

*Insert name of foreign country.

**Insert offset agreement number or other description.

(End of clause)

52.225-7019 Exclusionary policies and practices of foreign governments.

As prescribed at 225.7312, insert the following clause:

XCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENT (JAN 1977)

No person, partnership, corporation, or ther entity performing functions pursuant o this contract, shall, in employing or asigning personnel to participate in the perormance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based on race, religion, national origin, or sex.

(End of clause)

252.225-7020 Option to award and pay in foreign currency.

As prescribed at 225.7602(a), insert the following provision:

OPTION TO AWARD AND PAY IN FOREIGN CURRENCY (APR 1974)

(a) Offerors are required to state their price in United States dollars. Such price may also be stated wholly in the currency of the countries listed in the Schedule, or in a combination of United States dollars and the currency of any of the listed countries.

(b) Offerors shall state separately the United States dollar content, if any, in United States dollars. The term "United States dollar content" means the United States dollar cost to an offeror for United States end products or services (including costs of transportation furnished by United States flag carriers) imported directly from the United States and to be used in performance of a contract, as certified by the offeror.

(c) The Contracting Officer reserves the right to award to that responsive offeror willing to accept payment in whole or in part in a currency of any of the listed countries and whose offer is considered the most advantageous to the United States Government, even though the total price of the accepted offer may be more than the price of an offer received in United States dollars.

(End of provision)

252.225-7021 Acquisition and use of excess and near-excess currency.

As prescribed at 225.7608, insert the following clause:

ACQUISITION AND USE OF EXCESS AND NEAR-EXCESS CURRENCY (DEC 1967)

The Contractor shall not expend United States dollars for the performance of this contract in any of the countries set forth in the Schedule of this contract for the purchase of currency of such countries or for the purchase of goods or services needed for performance under this contract. The Contractor shall purchase all such currencies from United States disbursing officers in such countries at the rates of exchange used by such officers at the times of purchase.

(End of clause)

252.225-7022 Certification and agreement by contractors currently producing petroleum products in Angola.

As prescribed at 225.704(S-70), insert the following clause:

CERTIFICATION AND AGREEMENT BY CONTRACTORS CURRENTLY PRODUCING PETROLEUM PRODUCTS IN ANGOLA (APR 1987)

(a) Under section 316 of the National Defense Authorization Act for Fiscal Year 1987, Pub. L. 99-661, the Department of Defense may not purchase Angolan petroleum products from companies producing oil in Angola unless a waiver is granted by the Secretary of Defense or his designee. Any Offeror producing a petroleum product in Angola or who has an affiliate, subsidiary or partnership enterprise producing a petroleum product in Angola may be ineligible for award under this solicitation, if it intends to use a petroleum product of Angolan origin in the performance of any resultant contract. An Offeror producing a petroleum product in Angola or who has an affiliate, subsidiary or partnership enterprise producing oil in Angola must complete the certification below.

(b) For purposes of this clause, the term "petroleum product" means natural or synthetic crude; blends of natural or synthetic crude; and products refined or derived from natural or synthetic crude or from such blends.

(c) *Certification.* Offeror hereby certifies that the petroleum product to be supplied under any contract resulting from this solicitation /_____/ DOES /_____/ DOES NOT contain any Angolan petroleum product or any product derived from Angolan oil.

(d) *Agreement.* Offerors required by paragraph (a) to complete the certification set forth in paragraph (c) and who certify in paragraph (c) that the petroleum product to be supplied DOES NOT contain any Angolan petroleum product agree that the petroleum product to be supplied under any resulting contract will not contain any Angolan petroleum product or any product derived from Angolan oil.

(End of clause)

[53 FR 38184, Sept. 29, 1988]

252.225-7023 Restriction on acquisition of foreign machine tools.

As prescribed in 225.70125(a)(1), insert the following clause:

RESTRICTION ON ACQUISITION OF FOREIGN MACHINE TOOLS (JUL 1990)

(a) Machine tools within the Federal Supply Classifications (FSCs) listed in (c) below, delivered as end items, shall be of United States or Canadian origin.

(b) For purposes of this clause, a machine tool shall be considered to be of United States or Canadian origin if (1) it is manufactured in the United States or Canada and (2) the cost of its components manufactured in the United States or Canada exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end item and duty (whether or not a duty-free certificate may be issued).

(c)

Federal Supply Classification (FSC) and Name	
FSC 3405*	Saw and Filing Machines
FSC 3408	Machining Centers and Way Type Machines
FSC 3410	Electrical and Ultrasonic Erosion Machines
FSC 3411	Boring Machines
FSC 3412	Broaching Machines
FSC 3413	Drilling and Tapping Machines
FSC 3414	Gear Cutting and Finishing Machines
FSC 3415	Grinding Machines
FSC 3416	Lathes
FSC 3417	Milling Machines
FSC 3418	Planers and Shapers
FSC 3419	Miscellaneous Machine Tools
FSC 3426	Metal Finishing Equipment
FSC 3433	Gas Welding, Heat Cutting, and Metalizing Equipment
FSC 3438*	Miscellaneous Welding Equipment
FSC 3441	Bending and Forming Machines
FSC 3442	Hydraulic and Pneumatic Presses, power driven
FSC 3443	Mechanical Presses, power driven
FSC 3445*	Punching and Shearing Machines
FSC 3446	Forging Machinery, and Hammers
FSC 3448	Riveting Machines
FSC 3449	Miscellaneous Secondary Metal Forming and Cutting Machines
FSC 3460	Machine Tool Accessories
FSC 3461	Accessories for Secondary Metalworking Machinery

* Machine tools in these FSCs are not subject to the restriction of 225.7012-3 unless purchased using FY 89 funds.

(End of clause)

Alternate I (July 1990)

As prescribed at 225.7012-5(a) (2) and (3), substitute the following paragraph for paragraph (a) of the basic clause:

(a) Machine tools within the Federal Supply Classifications (FSCs) listed in paragraph (c), to be delivered as an end item or acquired by the Contractor on behalf of the Government, and to which title will vest in the Government, shall be of United States or Canadian origin.

[53 FR 38248, Sept. 29, 1988, as amended at 54 FR 7429, Feb. 21, 1989; 55 FR 30160, July 24, 1990]

252.225-7024 Restriction on acquisition of foreign valves.

As prescribed in 225.7012(e), insert the following clause.

Restriction on Acquisition of Foreign Valves (Jan 1989)

(a) The Contractor agrees that those valves used in piping for naval surface ships and submarines within Federal Supply Classifications 4810 (valves, powered) and 4820 (valves, non-powered) to be delivered as end items under this contract shall be of United States or Canadian origin.

(b) For the purpose of this clause, a valve shall be considered to be of United States or Canadian origin if (1) it is manufactured in the United States or Canada; and (2) the cost of its components manufactured in the United States or Canada exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end item and duty (whether or not a duty-free entry certificate may be issued).

(End of clause)

[54 FR 7429, Feb. 21, 1989]

252.225-7026 [Reserved]

252.225-7027 [Reserved]

252.225-7028 Notice of prohibition of certain contracts with foreign entities for the conduct of strategic defense initiative RDTE.

As prescribed at 225.7013(e), insert the following provision:

NOTICE OF PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN GOVERNMENTS OR FIRMS FOR THE CONDUCT OF STRATEGIC DEFENSE INITIATIVE RDTE (JAN 1990)

(a) *Definitions.* As used in this solicitation:

"Competent" means the ability of an offeror to satisfy the requirements of the solicitation. This determination is based on a comprehensive assessment of each offeror's proposal including a consideration of the specific areas of evaluation criteria in the relative order of importance described in the solicitation.

"Foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than fifty percent (50%) of the stock is owned or controlled by one or more foreign nationals.

"United States firm" means a business entity other than a foreign firm.

(b) *Policy.* This provision implements section 222 of the Defense Authorization Act for FYs 1988 and 1989 (Pub. L. 100-180) which prohibits the award of certain contracts, for the conduct of Strategic Defense Initiative (SDI) Program research, development, test, or evaluation (RDTE), to foreign governments or firms. Accordingly, except as provided for in paragraph (c) below, any funds appropriated to, or for the use of, Department of Defense (DoD), may not be used to enter into or carry out any contract, including any contract awarded as a result of a Broad Agency Announcement (BAA), with a foreign government or firm if the contract provides for the conduct of RDTE in connection with the SDI. Foreign governments and firms, however, are encouraged to submit offers since this clause is not intended to restrict SDI access to unique foreign expertise when contract performance requires a level of competency unavailable in the United States.

(c) *Exceptions.* The prohibition does not apply to a foreign government or firm if:

(1) The contract is to be performed within the United States; or

(2) The contract is exclusively for RDTE in connection with antitactical ballistic missile systems; or

(3) The foreign government or firm agrees to share a substantial portion of the total contract cost. The foreign share may be considered substantial where it is equitable with respect to the relative benefits to be derived from the contract by the U.S. and the foreign parties. For example, if the contract is more beneficial to the foreign party, its share of the costs should be correspondingly higher; or

(4) The U.S. Government determines that the contract cannot be competently per-

formed by a United States firm at a price equal to or less than the price at which the RDTE can be performed by a foreign government or firm.

(d) The Offeror hereby certifies that it is ____ is not ____ a United States firm as defined in paragraph (a) above.

(End of provision)

[54 FR 16120, Apr. 21, 1989; as amended at 54 FR 53621, Dec. 29, 1989]

252.226-7000 Notice of total set-aside for historically black colleges and universities and minority institutions.

As prescribed in 26.7009, insert the following clause:

NOTICE OF TOTAL SET-ASIDE FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS (JUN 1988)

(a) *Definitions.* The terms used in this clause have the same meaning given them at 226.7002 of the DoD FAR Supplement.

(b) *General.* (1) Offers are solicited only from Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

(2) Any award resulting from this solicitation will only be made to an entity which is an HBCU or MI both at the time of submission of its offer and at contract award.

(c) If requested by the Contracting Officer, an Offeror may be required to furnish evidence, prior to award, that it has been determined to be an HBCU or MI by the Secretary of Education.

(d) *Agreement.* An HBCU/MI submitting an offer in its own name agrees that at least fifty percent (50%) of the cost of contract performance incurred for personnel shall be expended for employees of the HBCU/MI.

(End of clause)

[53 FR 5131, Feb. 19, 1988, as amended at 53 FR 20630, 20631, June 6, 1988]

252.226-7001 Historically Black Colleges and Universities/Minority Institutions Certification.

As prescribed in 226.7009, insert the following clause:

Historically Black Colleges and Universities/Minority Institutions Certification (JUN 1988)

(a) *Definitions.*

(1) "Historically Black Colleges and Universities (HBCUs)" means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

(2) "Minority Institutions (MIs)" means institutions meeting the requirements prescribed by the Secretary of Education at 34 CFR 607.2. The term also includes any nonprofit research institution that was an integral part of an Historically Black College or University before November 14, 1986.

(b) *Certification.* The Offeror represents and certifies, as part of its offer, that it is ☐ a Historically Black College or University ☐ a Minority Institution as defined in paragraph (a) above (check applicable box).

Notification. The Offeror agrees to notify the Contracting Officer before award of any changes in its status as a Historically Black College or University or a Minority Institution.

(End of clause)

[53 FR 20631, June 6, 1988]

252.227-7000 Non-Estoppel.

As prescribed at 227.7009-1, insert the following clause in patent releases, license agreements, and assignments:

NON-ESTOPPEL (OCT 1966)

The Government reserves the right at any time to contest the enforceability, validity, scope of, or the title to any patent or patent application herein licensed without waiving or forfeiting any right under this contract.

(End of clause)

252.227-7001 Release of past infringement.

As prescribed at 227.7009-2(a), insert the following clause in patent releases, license agreements, and assignments:

RELEASE OF PAST INFRINGEMENT (AUG 1984)

The Contractor hereby releases each and every claim and demand which he now has or may hereafter have against the Government for the manufacture or use by or for the Government prior to the effective date of this contract, of any inventions covered by (i) any of the patents and applications for patent identified in this contract, [and (ii) any other patent or application for patent owned or hereafter acquired by him, insofar as and only to the extent that such other patent or patent application covers the manufacture, use, or disposition of (description of subject matter)].*

(End of clause)

* Bracketed portions of the clause may be omitted when not appropriate or not encompassed by the release as negotiated.

252.227-7002 Readjustment of payments.

As prescribed at 227.7009-2(b), insert the following clause in patent releases, license agreements, and assignments:

READJUSTMENT OF PAYMENTS (OCT 1966)

(a) If any license, under substantially the same patents and authorizing substantially the same acts which are authorized under this contract, has been or shall hereafter be granted within the United States, on royalty terms which are more favorable to the licensee than those contained herein, the Government shall be entitled to the benefit of such more favorable terms with respect to all royalties accruing under this contract after the date such more favorable terms become effective, and the Contractor shall promptly notify the Secretary in writing of the granting of such more favorable terms.

(b) In the event any claim of any patent hereby licensed is construed or held invalid by decision of a court of competent jurisdiction, the requirement to pay royalties under this contract insofar as its arises solely by reason of such claim, and any other claim not materially different therefrom, shall be interpreted in conformity with the court's decision as to the scope of validity of such claims; *Provided*, however, that in the event such decision is modified or reversed on appeal, the requirement to pay royalties under this contract shall be interpreted in conformity with the final decision rendered on such appeal.

(End of clause)

252.227-7003 Termination.

As prescribed at 227.7009-2(e), insert the following clause in patent releases, license agreements, and assignments:

TERMINATION (AUG 1984)

Notwithstanding any other provision of this contract, the Government shall have the right to terminate the within license, in whole or in part, by giving the Contractor not less than thirty (30) days notice in writing of the date such termination is to be effective; *Provided*, however, that such termination shall not affect the obligation of the Government to pay royalties which have accrued prior to the effective date of such termination.

(End of clause)

252.227-7004 License grant.

As prescribed at 227.7009-3(a), insert the following clause in patent releases, license agreements, and assignments:

LICENSE GRANT (AUG. 1984)

(a) The Contractor hereby grants to the Government an irrevocable, nonexclusive, nontransferable, and paid up license under the following patents, applications for patent, and any patents granted on such applications, and under any patents which may issue as the result of any reissue, division or continuation thereof, to practice by or cause to be practiced for the Government throughout the world, any and all of the inventions thereunder, in the manufacture and use of any article or material, in the use of any method or process, and in the disposition of any article or material in accordance with law:

U.S. Patent No. ____________________
Date ____________________
Application Serial No. ________________
Filing Date ____________________

together with corresponding foreign patents and foreign applications for patents, insofar as the Contractor has the right to grant licenses thereunder without incurring an obligation to pay royalties or other compensation to others solely on account of such grant.

(b) No rights are granted or implied by the agreement under any other patents other than as provided above or by operation of law.

(c) Nothing contained herein shall limit any rights which the Government may have obtained by virtue of prior contracts or by operation of law or otherwise.

(End of clause)

252.227-7005 License term.

As prescribed at 227.7009-3(b), insert one of the following clauses in patent releases, license agreements, and assignments:

(ALTERNATE I)

LICENSE TERM (AUG 1984)

The license hereby granted shall remain in full force and effect for the full term of each of the patents referred to in the "License Grant" clause of this contract and any and all patents hereafter issued on applications for patent referred to in such "License Grant" clause.

(End of clause)

(ALTERNATE II)

LICENSE TERM (AUG 1984)

The license hereby granted shall terminate on the ______ day of ____________ 19 ___; *Provided*, however, that said termination shall be without prejudice to the completion of any contract entered into by the Government prior to said date of termination or to the use or disposition thereafter of any articles or materials manufactured by or for the Government under this license.

(End of clause)

252.227-7006 License grant—running royalty.

As prescribed at 227.7009-4(a), insert the following clause in patent releases, license agreements, and assignments:

LICENSE GRANT—RUNNING ROYALTY (AUG 1984)

(a) The Contractor hereby grants to the Government, as represented by the Secretary of ________, an irrevocable, nonexclusive, nontransferable license under the following patents, applications for patent, and any patents granted on such applications, and under any patents which may issue as the result of any reissue, division, or continuation thereunder to practice by or cause to be practiced for the Department of ________, throughout the world, any and all of the inventions thereunder in the manufacture and use of any article or material, in the use of any method or process, and in the disposition of any article or material in accordance with law:

U.S. Patent No. ________________
Date ________________
Application Serial No. ________________
Filing Date ________________

together with corresponding foreign patents and foreign applications for patent, insofar as the Contractor has the right to grant licenses thereunder without incurring an obligation to pay royalties or other compensation to others solely on account of such grant.

(b) No rights are granted or implied by the agreement under any other patents other than as provided above or by operation of law.

(c) Nothing contained herein shall limit any rights which the Government may have obtained by virtue of prior contracts or by operation of law or otherwise.

(End of clause)

252.227-7007 License term—running royalty.

As prescribed at 227.7009-4(b), insert the following clause in patent releases, license agreements, and assignments:

LICENSE TERM—RUNNING ROYALTY (AUG 1984)

The license hereby granted shall remain in full force and effect for the full term of each of the patents referred to in the "License Grant" clause of this contract and any and all patents hereafte
plications for patent refer
unless sooner terminated
herein provided.

(End of clause)

257.227-7008 Computation o

As prescribed at 227.700
the following clause in pa
license agreements, and as

COMPUTATION OF ROYA
1984)

Subject to the condition
stated, royalties shall accrue t
tor under this agreement on
materials embodying, or ma
the use of, any or all inve
under any unexpired United
licensed herein, upon accepta
the Department of ________
of ______ [percent of the net
such articles or materials]
(name of item)] * whether ma
the Government or procured
price contract, and at the ra
per (name of item) acquire
tured by a Contractor perfo
cost-reimbursement contract.
to such articles or materials
Department of ________,
price," as used in this paragra
actual cost of direct labor
without allowance for overhe
sion.

(End of clause)

*Use bracketed matter as ap

252.227-7009 Reporting and royalties.

As prescribed at 227.700
the following clause in pat
license agreements, and as

REPORTING AND PAY
ROYALTIES (AUG

(a) The (procuring office)
before the sixtieth (60th) da
ing the end of each yearly*
________ during which roy
crued under this license, deliv
tractor, subject to military se
tions, a report in writing fur
sary information relative to r
have accrued under this contr

(b) Royalties which have
this contract during the y
ending ________ shall be pa
tractor (if appropriations the
able or become available) wi
days next following the recei
from the Contractor submit

ance with the report referred to in (a) of this clause; *Provided*, that the Government shall not be obligated to pay, in respect of any such yearly period, on account of the combined royalties accruing under this contract directly and under any separate licenses granted pursuant to the "License to Other Government Agencies" clause (if any) of this contract, an amount greater than ______ dollars ($______), and if such combined royalties exceed the said maximum yearly obligation, each department or agency shall pay a pro rata share of the said maximum yearly obligation as determined by the proportion its accrued royalties bear to the combined total of accrued royalties.

(End of clause)

*The frequency, date, and length of reporting periods should be selected as appropriate to the particular circumstances of the contract.

252.227-7010 License to other Government agencies.

As prescribed at 227.7009-4(e), insert the following clause in patent releases, license agreements, and assignments:

LICENSE TO OTHER GOVERNMENT AGENCIES (AUG 1984)

The Contractor hereby agrees to grant a separate license under the patents, applications for patents, and improvements referred to in the "License Grant" clause of this contract, on the same terms and conditions as appear in this license contract, to any other department or agency of the Government at any time on receipt of a written request for such a license from such department or agency; *Provided*, however, that as to royalties which accrue under such separate licenses, reports and payments shall be made directly to the Contractor by each such other department or agency pursuant to the terms of such separate licenses. The Contractor shall notify the Licensee hereunder promptly upon receipt of any request for license hereunder.

(End of clause)

252.227-7011 Assignments.

As prescribed at 227.7010, insert the following clause in assignments.

ASSIGNMENT (AUG 1984)

The Contractor hereby conveys to the Government, as represented by the Secretary of ______, the entire right, title, and interest in and to the following patents (and applications for patent), in and to the inventions thereof, and in and to all claims and demands whatsoever for infringement thereof heretofore accrued, the same to be held and enjoyed by the Government through its duly appointed representatives to the full end of the term of said patents (and to the full end of the terms of all patents which may be granted upon said applications for patent, or upon any division, continuation-in-part or continuation thereof):

U.S. Patent No. ______
Date ______
Name of Inventor ______
U.S. Application Serial No. ______
Filing Date ______
Name of Inventor ______

together with corresponding foreign patents and applications for patent insofar as the Contractor has the right to assign the same.

(End of clause)

252.227-7012 Patent license and release contract.

As prescribed at 227.7012, insert the following clause in patent releases, license agreements, and assignments:

______ (Contract No.)

PATENT LICENSE AND RELEASE CONTRACT (AUG 1984)

THIS CONTRACT is effective as of the ______ day of ______ 19__, between the UNITED STATES OF AMERICA (hereinafter called the Government), and ______ (hereinafter called the Contractor), [a corporation organized and existing under the laws of the State of ______), (a partnership consisting of ______), (an individual trading as ______)], of the City of ______ in the State of ______.

WHEREAS, Contractor warrants that he has the right to grant the within license and release, and the Government desires to procure the same, and

WHEREAS, this contract is authorized by law, including 10 U.S.C. 2386.

NOW THEREFORE, in consideration of the grant, release and agreements hereinafter recited, the parties have agreed as follows:

ARTICLE 1. License Grant.*

(Insert the clause at 252.227-7004 for a paid up license, or the clause at 252.227-7006 for a license on a running royalty basis.)

ARTICLE 2. License Term.*

(Insert the appropriate alternative clause at 252.227-7005 for a paid up license, or the clause at 252.227-7007 for a license on a running royalty basis.)

ARTICLE 3. Release of Past Infringement.

(Insert the clause at 252.227-7001.)

ARTICLE 4. Non-Estoppel.

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(Insert the clause at 252.227-7000.)

ARTICLE 5. Payment.

The Contractor shall be paid the sum of ______ Dollars ($______) in full compensation for the rights herein granted and agreed to be granted. (For a license on a running royalty basis, insert the clause at 252.227-7006 in accordance with the instructions therein, and also the clause as specified at 252.227-7002 and 252.227-7009 and 252.227-7010.)

ARTICLE 6. Officials Not to Benefit.

(Insert the clause at FAR 52.203-1.)

ARTICLE 7. Covenant Against Contingent Fees.

(Insert the clause at FAR 52.203-5.)

ARTICLE 8. Assignment of Claims.

(Insert the clause at FAR 52.232-23.)

ARTICLE 9. Gratuities.

(Insert the clause at FAR 52.203-3.)

ARTICLE 10. Disputes.

(Insert the clause at FAR 52.223-1.)

ARTICLE 11. Successors and Assignees.

This Agreement shall be binding upon the Contractor, his successors** and assignees, but nothing contained in this Article shall authorize an assignment of any claim against the Government otherwise than as permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this contract.

THE UNITED STATES OF AMERICA.

By ————————————————

Date ————————————————

(Signature and Title of Contractor) ————

By ————————————————

Date ————————————————

* If only a release is procured, delete this article; if an assignment is procured, use the clause at 252.227-7011.

** When the Contractor is an individual, change "successors" to "heirs"; if a partnership, modify appropriately.

(End of clause)

252.227-7013 Rights in technical data and computer software.

As prescribed at 227.473-1(e) and 227.481-2(b)(2), insert the following clause:

RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (OCT 1988)

(a) *Definitions.*

(1) "Commercial computer software", as used in this clause, means computer software which is used regularly for other than Government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

(2) "Computer" as used in this clause, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

(3) "Computer data base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

(4) "Computer program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a particular user.

(5) "Computer software", as used in this clause, means computer programs and computer data bases.

(6) "Computer software documentation", as used in this clause, means technical data, including computer listings and printouts, in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) "Data", as used in this clause, means recorded information, regardless of form or method of the recording.

(8) "Detailed design data", as used in this clause, means technical data that describes the physical configuration and performance characteristics of an item or component in sufficient detail to ensure that an item or component produced in accordance with the technical data will be essentially identical to the original item or component.

(9) "Detailed manufacturing or process data", as used in this clause, means technical data that describes the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.

(10) "Developed", as used in this clause, means that the item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component or process has been analyzed or tested sufficiently to demonstrate to reasonable people

skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed", the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component or process be actually reduced to practice within the meaning of Title 35 of the United State Code.

(11) "Developed Exclusively with Government Funds", as used in this clause, means, in connection with an item, component, or process, that the cost of development was paid for in whole by the Government or that the development was required for the performance of a Government contract or subcontract.

(12) "Developed Exclusively at Private Expense", as used in this clause, means, in connection with an item, component, or process, that no part of the cost of development was paid for by the Government and that the development was not required for the performance of a Government contract or subcontract. Independent research and development and bid and proposal costs, as defined in FAR 31.205-18 (whether or not included in a formal independent research and development program), are considered to be at private expense. All other indirect costs of development are considered Government funded when development was required for the performance of a Government contract or subcontract. They are considered funded at private expense when development was not required for the performance of a Government contract or subcontract.

(13) "Form, fit, and function data", as used in this clause, means technical data that describes the required overall physical, functional, and performance characteristics, (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(14) "Government purpose license rights" (GPLR), as used in this clause, means rights to use, duplicate, or disclose data (and in the SBIR Program, computer software), in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. Government purposes include competitive procurement, but do not include the right to have or permit others to use technical data (and in the SBIR Program, computer software) for commercial purposes.

(15) "Limited rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party asserting limited rights, be: released or disclosed outside the Government; used by the Government for manufacture, or in the case of computer sofware documentation, for preparing the same or similar computer software; or used by a party other than the Government, except that the Government may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

(i) Such release, disclosure, or use—

(A) Is necessary for emergency repair and overhaul; or

(B) Is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;

(ii) Such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

(16) "Required for the Performance of a Government Contract or Subcontract", as used in this clause, means, in connection with the development of an item, component, or process, that the development was specified in a Government contract or subcontract or that the development was accomplished during and was necessary for performance of a Government contract or subcontract.

(17) "Restricted rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to—

(i) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(ii) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(iii) Copy computer programs for safekeeping (archives) or backup purposes; and

(iv) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (a)(17) (i)-(iv) above that are listed or described in the contract

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or described in a license agreement made a part of the contract.

(18) "Technical data", as used in this clause, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(19) "Unlimited rights", as used in this clause, means rights to use, duplicate, release, or disclose, technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(20) "Unpublished", as used in this clause, means that technical data or computer software has not been released to the public or furnished to others without restriction on further use or disclosure. Delivery of other than unlimited rights technical data or computer software to or for the Government under the contract does not, in itself, constitute release to the public.

(b) *Rights in Technical Data*—(1) *Unlimited Rights.* Unless otherwise agreed in writing, the Government is entitled to and will receive unlimited rights in:

(i) Technical data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;

(ii) Technical data resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance under this or any other Government contract or subcontract;

(iii) Form, fit, and function data pertaining to items, components, or processes prepared or required to be delivered under this or any other Government contract or subcontract;

(iv) Manuals or instructional materials (other than detailed manufacturing or process data and commercial computer software documentation) prepared or required to be delivered under this or any other contract or any subcontract hereunder necessary for installation, operation, maintenance, or training purposes;

(v) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

(vi) Technical data which is otherwise publicly available, or has been released or disclosed by the Contractor or subcontractor, without restriction on further release or disclosure;

(vii) Technical data in which the Government has obtained unlimited rights as a result of negotiations; and

(viii) Technical data previously delivered subject to either GPLR or limited rights and the restrictive condition has expired.

(2) *Government Purpose License Rights.* The Government shall have Government purpose license rights (GPLR) in technical data which the parties have agreed will be furnished with GPLR. The Government may disclose or provide GPLR data to a person or corporation that has executed the Standard Non-Disclosure Agreement. This agreement establishes the third party beneficiary status of the Contractor identified in the GPLR legend. If the recipient of GPLR data has executed the Standard Non-Disclosure Agreement, the Contractor shall have no claim or right of action against the Government for damages related to misuse or unauthorized disclosure of the data. GPLR shall be effective, during the time period specified in the contract, only when the portion or portions of each piece of data subject to such rights are identified (for example, by circling, underscoring, or a note), and are marked with the legend below containing:

(i) The number of the prime contract under which the technical data is to be delivered;

(ii) The name of the Contractor and/or any subcontractor asserting Government purpose license rights; and

(iii) The date when the data will be subject to unlimited rights.

GOVERNMENT PURPOSE LICENSE RIGHTS LEGEND

Contract No. ____________________

Contractor: ____________________

____

____

Government purpose license rights shall be effective until (insert date certain); thereafter, the Government purpose license rights will expire and the Government shall have unlimited rights in the technical data.

The restrictions governing use of technical data marked with this legend are set forth in the definition of "Government Purpose License Rights" in paragraph (a)(14) of the clause at 252.227-7013 of the contract listed above. This legend, together with the indications of the portions of this data which are subject to Government purpose license rights, shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) *Limited Rights.* Unless otherwise agreed, the Government shall have limited rights in:

(i) Technical data pertaining to items, components, processes or computer software developed exclusively at private expense except for data in the categories in (b)(1) above;

(ii) Technical data that the parties have agreed will be subject to limited rights for a specified period of time; and

(iii) Technical data listed or described in a license agreement made a part of the contract and subject to conditions other than those described in the definitions of limited rights. Notwithstanding any contrary provision in the license agreement, the Government shall have the rights included in the definition of "limited rights" in paragraph (a)(15) above.

Limited rights will remain in effect so long as the technical data remains unpublished and provided that only the portions of each piece of data subject to limited rights are identified (for example, by circling, underscoring, or a note), and the piece of data is marked with the legend below containing:

(A) The number of the prime contract under which the technical data is to be delivered; and

(B) The name of the Contractor and/or any subcontractor asserting limited rights.

(C) The date the data will be subject to unlimited rights (if applicable).

LIMITED RIGHTS LEGEND

Contract No. ———————— ——————————

Contractor: ———————— ——————————

——————————————————————

——————————————————————

Limited rights shall be effective until (insert date certain), thereafter the limited rights will expire and the Government shall have unlimited rights in the technical data.

The restrictions governing the use and disclosure of technical data marked with this legend are set forth in the definition of "limited rights" in paragraph (a)(15) of the clause at 252.227-7013 of the contract listed above.

For technical data which the parties have agreed will be subject to limited rights for a specified time period, insert the agreed upon date. If the limited rights are not subject to an expiration date, so indicate.

For technical data which the parties have agreed will be subject to rights other than those described in the definitions of limited rights or GPLR in paragraph (a)(15) and (a)(14) above, insert the following statement:

"In addition to the minimum rights described in the definition of limited rights in DFARS clause at 252.227-7013, the Government shall have the rights described in the license or agreement made a part of Contract No. ________."

This legend, together with the indications of the portions of this data which are subject to limited rights, shall be included on any reproduction hereof which includes any part of the portions subject to such limitations. This technical data will remain subject to limited rights only so long as it remains "unpublished" as defined in paragraph (a) above.

(c) *Rights in Computer Software*—(1) *Restricted Rights.* (i) The Government shall have restricted rights in computer software, listed or described in a license agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights. Notwithstanding any contrary provision in any such license agreement, the Government shall have the rights included in the definition of "restricted rights" in paragraph (a)(17) above. Unless the computer software is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication or disclosure is subject to restrictions stated in Contract No. ____ with (Name of Contractor) and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software, the Government shall have unlimited rights in the software. The Contractor may not place any legend on computer software restricting the Government's rights in such software unless the restrictions are set forth in a license agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to the computer software shall relieve the Government of liability with respect to the unmarked software.

(ii) Notwithstanding subparagraph (c)(1)(i) above, commercial computer software and related documentation developed at private expense and not in the public domain may be marked with the following Legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013.

——————————————————————

(Name of Contractor and Address)

When acquired by the Government, commercial computer software and related documentation so legended shall be subject to the following:

(A) Title to and ownership of the software and documentation shall remain with the Contractor.

(B) User of the software and documentation shall be limited to the facility for which it is acquired.

(C) The Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government has or may obtain without restrictions.

(D) The Government shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software, *Provided*, that the unmodified portions shall remain subject to these restrictions.

(2) *Unlimited Rights*. The Government shall have unlimited rights in:

(i) Computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(iii) Computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) Computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished computer software; and

(v) Computer software which is otherwise publicly available, or has been, or is normally released, or disclosed by the Contractor or subcontractor without restriction on further release or disclosure.

(d) *Technical Data and Computer Software Previously Provided Without Restriction*. Contractor shall assert no restrictions on the Government's rights to use or disclose any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this clause shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(e) *Copyrights*. (1) In addition to the rights granted under the provisions of paragraphs (b) and (c) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights set forth in the definition of "unlimited rights" in (a)(19) above. With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definition of "limited rights". With respect to computer software which the parties have agreed will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include (in technical data or computer software prepared for or acquired by the Government under this contract) any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified herein.

(3) The Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under 17 U.S.C. 201(b).

(4) Technical data delivered under this contract bearing a copyright notice shall also include the following statement:

> This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at DFARS 252.227-7013 (date).

(f) *Removal of Unjustified and Nonconforming Markings*—(1) *Unjustified Technical Data Markings*. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may, at the Contractor's expense, correct, cancel, or ignore any marking not justified by the terms of this contract on any technical data furnished hereunder in accordance with the clause of this contract entitled "Validation of Restrictive Markings on Technical Data", DFARS 252.227-7037.

(2) *Nonconforming Technical Data Markings*. Correction of nonconforming markings

is not subject to DFARS 252.227-7037. The Government may, at the Contractor's expense, correct any nonconforming markings if the Contracting Officer notifies the Contractor and the Contractor fails to correct the nonconforming markings within sixty (60) days.

(3) *Unjustified and Nonconforming Computer Software Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any computer software furnished hereunder, if:

(i) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings; or

(ii) The Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of restricted rights markings.

In either case, the Government shall give written notice to the Contractor of the action taken.

(g) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(h) *Limitation on Charges for Data and Computer Software.* The Contractor recognizes that the Government is not obligated to pay, or to allow to be paid, any charges for data or computer software which the Government has a right to use and disclose to others without restriction and Contractor agrees to refund any such payments. This provision applies to contracts that involve payments by subcontractors and those entered into through the Military Assistance Program, in addition to U.S. Government prime contracts. It does not apply to reasonable reproduction, handling, mailing, and similar administrative costs.

(i) *Acquisition of Technical Data and Computer Software from Subcontractors.* (1) The Contractor must satisfy its contractual obligation to the Government while ensuring that the rights afforded its subcontractors under 10 U.S.C. 2320 and 2321 are recognized and protected. In satisfying its obligation, the Contractor must accomplish the balancing of interests described at DFARS 227-472-1 in dealing with its subcontractors.

(2) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in the subcontractor data or computer software.

(3) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier contractor. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor, then said subcontractor may fulfill its requirement by submitting such data directly to the Government, rather than through the prime Contractor.

(4) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to obtain rights in technical data or computer software from their subcontractors.

(5) The Contractor shall ensure that subcontractor rights are recognized and protected in the notification and listing process at paragraphs (j) and (k) below.

(6) In no event shall the Contractor use its obligation to recognize and protect subcontractor rights in technical data as an excuse for failing to satisfy its contractual obligation to the Government.

(j) *Notice of Limitations on Government Rights.* (1) The Offeror/Contractor shall notify the Contracting Officer of its or its potential subcontractor's use in the performance of the contract or subcontract of items, components, processes and computer software that—

(i) Have been developed exclusively at private expense;

(ii) Have been developed in part at private expense; or

(iii) Embody technology that has been developed exclusively with Government funds which the Offeror or Contractor or subcontractor desires exclusive rights to commercialize, with Government approval.

(2) Such notification is not required with respect to items, components, processes or computer software if no technical data is required to be delivered or if the required technical data is delivered with unlimited rights.

(3) Such notification shall be accompanied by the following representation:

REPRESENTATION OF PRIVATE DEVELOPMENT

The Offeror/Contractor/Subcontractor represents that, to the best of its knowledge and belief, the information contained in this notification is current, accurate, and complete.

Date ————————————————
Name and Title ——————————
Official ——————————————

This representation shall be dated and the signing official (identified by name and title) shall be duly authorized to bind the Contractor.

(4) Upon request by the Contracting Officer, the Offeror or Contractor shall provide sufficient information to enable the Con-

tracting Officer to identify and evaluate the Contractor's or subcontractor's assertions made in (j)(1) above.

(k) *Identification of restrictions on Government rights.* Technical data and computer software shall not be tendered to the Government with other than unlimited rights, unless the technical data or computer software are identified in a list made part of this contract. This list is intended to facilitate review and acceptance of the technical data and computer software by the Government and does not change, waive, or otherwise modify the rights or obligations of the parties under the clause at DFARS 252.227-7037. As a minimum, this list must—

(1) Identify the items, components, processes, or computer software to which the restrictions on the Government apply;

(2) Identify or describe the technical data or computer software subject to other than unlimited rights; and

(3) Identify or describe, as appropriate, the category or categories of Government rights, the agreed-to time limitations, or any special restrictions on the use of disclosure of the technical data or computer software.

(l) *Postaward Negotiation—Disputes.* In the case of an item, component, or process that is developed in part with Government funds and in part at private expense, if, after exhausting all reasonable efforts, the parties fail to agree on the apportionment of the rights in technical data furnished under this contract by the date established in the contract for agreement, or within any extension established by the Contracting Officer, then the Contracting Officer may establish the respective data rights of the parties, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract.

(End of clause)

ALTERNATE I (OCT 1988)

As prescribed at 227.475-8, add the following paragraph to the basic clause:

(m) *Publication for sale.* If, prior to publication for sale by the Government and within the period designated in the contract or task order, but in no event later than twenty-four (24) months after delivery of such data, the Contractor publishes for sale any data (1) designated in the contract as being subject to this paragraph and (2) delivered under this contract, and promptly notifies the Contracting Officer of these publications, the Government shall not publish such data for sale or authorize others to do so. This limitation on the Government's right to publish for sale any such data so published by the Contractor shall continue as long as the data is protected as a published work under the copyright law of the United States and is reasonably available to the public for purchase. Any such publication shall include a notice identifying this contract and recognizing the license rights of the Government under this clause. As to all such data not so published by the Contractor, this paragraph shall be of no force or effect.

ALTERNATE II (OCT 1988)

As prescribed at 227.479(d), substitute the following paragraphs (b) and (c) for the existing paragraphs (b) and (c) in the basic clause.

(b) *Rights in Technical Data—(1) Unlimited Rights.* The Government is entitled to and will receive unlimited rights in:

(i) Form, fit, and function data pertaining to items, components, or processes prepared or required to be delivered under this or any other Government contract or subcontract;

(ii) Manuals or instructional materials (other than detailed manufacturing or process data or commercial computer software documentation) prepared or required to be delivered under this or any other contract or any subcontract hereunder necessary for installation, operation, maintenance, or training purposes;

(iii) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data; and

(iv) Technical data which is otherwise publicly available, or has been released or disclosed by the contractor or subcontractor, without restriction on further release or disclosure.

(2) *Limited Rights.* The Government shall have limited rights in:

(i) Unpublished technical data pertaining to items, components or processes developed exclusively at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data included in (b)(1) above. Limited rights shall be effective provided that only the portion or portions of each piece of data to which limited rights are to be asserted are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below containing:

(A) The number of the prime contract under which the technical data is to be delivered; and

(B) The name of the Contractor and/or any subcontractor asserting limited rights.

LIMITED RIGHTS LEGEND

Contract No. ______.
Contractor: ______________.

The restrictions governing the use of technical data marked with this legend are set forth in the definition of "Limited Rights" in DFARS clause at 252.227-7013. This legend, together with the indications of the portions of this data, shall be included on any reproduction hereof which includes any part of the portions subject to limited rights. The limited rights legend shall be honored only as long as the data continues to meet the definition of limited rights.

(3) *Government Purpose License Rights.* For a period of two (2) years (or such other period as may be authorized by the Contracting Officer for good cause shown) after the delivery and acceptance of the last deliverable item under the contract, the Government shall have limited rights and, after the expiration of the two-year period, shall have Government purpose license rights in any technical data prepared or required to be delivered under this contract or subcontract hereunder, which is not otherwise subject to unlimited or limited rights pursuant to subparagraph (b)(1) or (b)(2) above. The Government shall not be liable for unauthorized use or disclosure of the data by third parties. Government Purpose License Rights shall be effective provided that only the portion or portions of each piece of data to which such rights are to be asserted are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below:

(A) the number of the prime contract under which the technical data is to be delivered; and

(B) the name of the contractor and/or any subcontractor asserting Government Purpose License Rights.

GOVERNMENT PURPOSE LICENSE RIGHTS (SBIR PROGRAM)

Contract No. ______.
Contractor: ______________.

For a period of two (2) years after delivery and acceptance of the last deliverable item under the above contract, this technical data shall be subject to the restrictions contained in the definition of "Limited Rights" in DFARS clause at 252.227-7013. After the two-year period, the data shall be subject to the restrictions contained in the definition of "Government Purpose License Rights" in DFARS clause at 252.227-7013. The Government assumes no liability for unauthorized use or disclosure by others. This legend, together with the indications of the portions of the data which are subject to such limitations, shall be included on any reproduction hereof which contains any portions subject to such limitations and shall be honored only as long as the data continues to meet the definition on Government purpose license rights.

(c) *Rights in Computer Software*—(1) *Restricted Rights.* (i) The Government shall have restricted rights in computer software, listed or described in a license agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights. Notwithstanding any contrary provision in any such license agreement, the Government shall have the rights included in the definition of "restricted rights" in paragraph (a)(17) above. Unless the computer software is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication or disclosure is subject to restrictions stated in Contract No. ______ with (Name of Contractor).

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software, the Government shall have unlimited rights in the software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to this unmarked software.

(ii) Notwithstanding subparagraph (c)(1)(i) above, commercial computer software and related documentation developed at private expense and not in the public domain may be marked with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013.

____

(Name of Contractor and Address)

When acquired by the Government, commercial computer software and related documentation so legended shall be subject to the following:

(A) Title to and ownership of the software and documentation shall remain with the Contractor.

(B) User of the software and documentation shall be limited to the facility for which it is acquired.

(C) The Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government has or may obtain without restrictions.

(D) The Government shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software, *Provided*, that the unmodified portions shall remain subject to these restrictions.

(2) *Government Purpose License Rights.* For a period of two (2) years (or such other period as may be authorized by the Contracting Officer for good cause shown) after the delivery and acceptance of the last deliverable item under the contract, the Government shall have restricted rights and, after expiration of the two-year period, shall have Government purpose license rights in:

(i) Computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any Government contract or subcontract;

(ii) Computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract; and

(iii) Any other computer software required to be perpared or delivered under this contract or subcontract hereunder, which is not otherwise subject to restricted or unlimited rights pursuant to subparagraph (c)(1) or (c)(3) herein. Government purpose license rights shall be effective provided that each unit of software is marked with an abbreviated license rights legend reciting that the use, duplication, or disclosure of the software is subject to the same restrictions included in the same contract (identified by number) with the same contractor (identified by name). The Government assumes no liability for unauthorized use, duplication, or disclosure by others.

(3) *Unlimited Rights.* The Government shall have unlimited rights in:

(i) Computer software required to be prepared or delivered under this or any subcontract hereunder that was previously delivered or previously required to be delivered to the Government under any contract or subcontract with unlimited rights;

(ii) Computer software that is publicly available or has been or is normally released or disclosed by the Contractor without restriction on futher use or disclosure; and

(iii) Computer data bases, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain.

[53 FR 43709, Oct. 28, 1988; 53 FR 50417, Dec. 15, 1988, as amended at 54 FR 31039, July 26, 1989]

252.227-7014—252.227-7017 [Reserved]

252.227-7018 Restrictive markings on technical data.

As prescribed at 227.473-3(a), insert the following clause:

RESTRICTIVE MARKINGS ON TECHNICAL DATA (OCT. 1988)

(a) The Contractor or any subcontractor that delivers technical data with other than unlimited rights shall have, maintain, and follow throughout the performance of this contract, written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of the "Rights in Technical data and Computer Software" clause of this contract. The Contractor or subcontractor shall also maintain a quality assurance system to assure compliance with this clause.

(b) As part of the procedures, the Contractor shall as a minimum:

(1) Maintain records to show how the procedures of paragraph (a) above were applied in determining that the markings are authorized:

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(3) Provide for review of subcontractor procedures for controlling the restrictive markings on technical data. Where appropriate, the Contractor may request Government assistance in evaluating subcontractor procedures; and

(4) Establish and maintain operating procedures and physical security designed to protect any technical data subject to other than unlimited rights from inadvertent or unauthorized marking, disclosure or release to third parties.

(c) The Contractor shall, within sixty (60) days after award of this contract, identify in writing to the Contracting Officer by name or title the person(s) having the final responsibility within the Contractor's organization for determining whether restrictive markings are to be placed on technical data to be delivered under this contract. The Government is authorized to contact such person(s) to resolve questions involving restrictive markings.

(d) The Contracting Officer may evaluate, verify and obtain a copy of the Contractor's procedures. The failure of the Contracting Officer to evaluate or verify such procedures shall not relieve the Contractor of the responsibility for complying with paragraphs (a) and (b) above.

(e) If the Contracting Officer gives written notification of any failure to maintain or follow the established procedures, or of any deficiency in the procedures, corrective action shall be accomplished within the time specified by the Contracting Officer.

(f) This clause shall be included in each subcontract under which technical data is required to be delivered. When so inserted, "Contractor" shall be changed to "Subcontractor".

(End of clause)

[53 FR 43714, Oct. 28, 1988]

252.227-7019 Identification of restricted rights computer software.

As prescribed at 227.481-2(b)(2), insert the following provision:

IDENTIFICATION OF RESTRICTED RIGHTS COMPUTER SOFTWARE (APR 1988)

The Officer is required to identify in his proposal, to the extent feasible, any such computer software which was developed at private expense and upon the use of which it desires to negotiate restrictions, and to state the nature of the proposed restrictions. Any restrictions on the Government's use or disclosure of computer software developed at private expense and to be delivered under the contract must be set forth in an agreement made a part of the contract, either negotiated prior to award or included in a modification of the contract before such delivery. If no such computer software is identified, all deliverable computer software will be subject to unlimited rights.

(End of provision)

[53 FR 43714, Oct. 28, 1988]

252.227-7020 Rights in data—special works.

As prescribed at 227.476(a), insert the following clause:

RIGHTS IN DATA—SPECIAL WORKS (MAR 1979)

(a) The term "works" as used herein includes literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of similar nature. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All works first produced in the performance of this contract shall be the sole property of the Government, which shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b), and the Government shall own all of the rights comprised in the copyright. The Contractor agrees not to assert or authorize others to assert any rights, or establish any claim to copyright, in such works. The Contractor, unless directed to the contrary by the Contracting Officer, shall place on any such works delivered under this contract the following notice:

• (*Year date of delivery*) United States Government as represented by the Secretary of (*department*). All rights reserved.

In the case of a phonorecord, the c will be replaced by P.

(c) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world (1) to reproduce in copies or phonorecords, to prepare derivative works, to distribute copies or phonorecords, and to perform or display publicly any portion of a work which is not first produced in the performance of this contract but in which copyright is owned by the Contractor and which is incorporated in the work furnished under this contract, and (2) to authorize others to do so for Government purposes.

(d) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in any works prepared for or delivered to the Government under this contract any works of authorship in which copyright is not owned by the Contractor or the Government without acquiring for the Government any rights necessary to perfect a license of the scope set forth in paragraph (c) above.

(e) The Contractor shall indemnify and save and hold harmless the Government, and its officers, agents and employees acting for the Government, against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights, or rights of privacy or publicity, arising out of the creation, delivery, or use of any works furnished under this contract, or (2) based upon any libelous or other unlawful matters contained in such works.

(f) Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(g) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *Provided*, such incorporated material is identified by the Contractor at the time of delivery of such work.

(End of clause)

[53 FR 43714, Oct. 28, 1988; 53 FR 50417, Dec. 15, 1988]

252.227-7021 Rights in data—Existing works.

As prescribed at 227.477(a), insert the following clause:

RIGHTS IN DATA—EXISTING WORKS (MAR 1979)

(a) The term "works" as used herein includes literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of a similar nature. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world (1) to distribute, perform publicly, and display publicly the works called for under this contract and (2) to authorize others to do so for Government purposes.

(c) The Contractor shall indemnify and save and hold harmless the Government, and its officers, agents, and employees acting for the Government, against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights, or rights of privacy or publicity arising out of the creation, delivery, or use, of any works furnished under this contract, or (2) based upon any libelous or other unlawful matter contained in same works.

(End of clause)

[53 FR 43715, Oct. 28, 1988]

252.227-7022 Government rights (unlimited).

As prescribed at 227.478-2(a)(1)(i), insert the following clause:

GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

[53 FR 43715, Oct. 28, 1988; 53 FR 50417, Dec. 15, 1988]

252.227-7023 Drawings and other data to become property of Government.

As prescribed at 227.478-2(a)(1)(ii), insert the following clause:

DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAR 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b). With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

[53 FR 43715, Oct. 28, 1988]

252.227-7024 Notice and approval of restricted designs.

As prescribed at 227.478-5, insert the following clause:

NOTICE AND APPROVAL OF RESTRICTED DESIGNS (APR 1984)

In the performance of this contract, the Contractor shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment that are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer, the Contractor shall not produce a design or specification that requires in this construction work the use of structures, products, materials, construction equipment, or processes that are known by the Contractor to be available only from a sole source. The Contractor shall promptly report any such design or specification to the Contracting Officer and give the reason why it is considered necessary to so restrict the design or specification.

(End of clause)

[53 FR 43715, Oct. 28, 1988]

252.227-7025 [Reserved]

252.227-7026 Deferred delivery of technical data or computer software.

As prescribed at 227.475-2(b), insert the following clause:

Deferred Delivery of Technical Data or Computer Software (APR 1988)

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all items (other than data or computer software) to be delivered under this contract or termination of this contract, whichever is later, delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date Contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(End of clause)

[53 FR 43715, Oct. 28, 1988]

252.227-7027 Deferred ordering of technical data or computer software.

As prescribed at 227.475-2(c), insert the following clause:

Deferred Ordering of Technical Data or Computer Software (APR 1988)

In addition to technical data or computer software specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technical data or computer software) to be delivered under this contract or the termination of the contract, order any technical data or computer software generated in the performance of this contract or any subcontract hereunder. When the technical data or computer software is ordered, the Contractor shall be compensated for converting the data or computer software into the prescribed form, for reproduction and delivery. The obligation to deliver the technical data of a subcontractor and pertaining to an item obtained from him shall expire three (3) years after the date the Contractor accepts the last delivery of that item from that subcontractor under this contract. The Government's rights to use said data or computer software shall be pursuant to the "Rights in Technical Data and Computer Software" clause of this contract.

(End of clause)

[53 FR 43715, Oct. 28, 1988]

252.227-7028 Requirement for technical data representation.

As prescribed at 227.473-1(a)(5)(ii), insert the following provision:

Requirement for Technical Data Representation (OCT 1988)

The Offeror shall submit with its offer a representation as to whether the Offeror has delivered or is obligated to deliver to the Government under any contract or subcontract the same or substantially the same technical data included in its offer; if so, the Offeror shall identify:

(a) One existing contract or subcontract under which the technical data were delivered or will be delivered, and the place of delivery; and

(b) Any limitation on the Government's right to use or disclose the data, including, when applicable, identification of the earliest date the limitation expires.

(End of provision)

[53 FR 43715, Oct. 28, 1988; 53 FR 50417, Dec. 15, 1988]

252.227-7029 Identification of technical data.

As prescribed at 227.473-3(a), insert the following clause:

Identification of Technical Data (APR 1988)

Technical data delivered under this contract shall be marked with the number of this contract, name of Contractor, and name of any subcontractor who generated the data.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7030 Technical data—withholding of payment.

As prescribed at 227.473-5(b), insert the following clause:

TECHNICAL DATA—WITHHOLDING OF PAYMENT (OCT 1988)

(a) If technical data specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not identified in the list described in the clause at 252.227-7013(k) of this contract), the Contracting Officer may until such data is accepted by the Government, withhold payment to the Contractor of ten percent (10%) of the total contract price or amount unless a lesser withholding is specified in the contract. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7031 Data requirements.

As prescribed at 227.475-1(a), insert the following clause:

DATA REQUIREMENTS (OCT 1988)

The Contractor is required to deliver only the data items listed on the DD Form 1423 (Contract Data Requirements List) and data items identified in and deliverable under any contract clause of FAR Subpart 52.2 and DoD FAR Supplement Subpart 252.2 made a part of the contract.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7032 Rights in technical data and computer software (foreign).

As prescribed at 227.475-5, insert the following clause:

RIGHTS IN TECHNICAL DATA AND COMPUTE
SOFTWARE (FOREIGN) (JUN 1975)

The United States Government may d plicate, use, and disclose in any manner f any purposes whatsoever, including delive to other governments for the furtherance mutual defense of the United States Go ernment and other governments, all techn cal data including reports, drawings a blueprints, and all computer software, spe fied to be delivered by the contractor to t United States Government under this co tract.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7033 Rights in shop drawings.

As prescribed at 227.478-2(a)(2 insert the following clause:

RIGHTS IN SHOP DRAWINGS (APR 1966)

(a) Shop drawings for construction mea drawings, submitted to the Government b the Construction Contractor, subcontracto or any lower-tier subcontractor pursuant t a construction contract, showing in detail (the proposed fabrication and assembly o structural elements and (ii) the installatio (i.e., form, fit, and attachment details) o materials or equipment. The Governmen may duplicate, use, and disclose in an manner and for any purpose shop drawing delivered under this contract.

(b) This clause, including this paragrap (b), shall be included in all subcontract hereunder at any tier.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7034 Patents—subcontracts.

As prescribed at 227.304-4, insert the following clause:

PATENTS—SUBCONTRACTS (APR 1984)

The Contractor will include the clause at FAR 52.227-12, Patent Rights—Retention by the Contractor (Long Form), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by other than a small business firm or nonprofit organization.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7035 [Reserved]

252.227-7036 Certification of technical data conformity.

As prescribed at 227.473-5(c), insert the following clause:

CERTIFICATION OF TECHNICAL DATA CONFORMITY (MAY 1987)

(a) All technical data delivered under this contract shall be accompanied by the following written certification:

The Contractor, ________________, hereby certifies that, to the best of its knowledge and belief, the technical data delivered herewith under Contract No. ________ is complete, accurate, and complies with all requirements of the contract.

Date ________________________________

Name and Title of Certifying Official ____

____

This written certification shall be dated and the certifying official (identified by name and title) shall be duly authorized to bind the Contractor by the certification.

(b) The Contractor shall identify, by name and title, each individual (official) authorized by the Contractor to certify in writing that the technical data is complete, accurate, and complies with all requirements of the contract. The Contractor hereby authorizes direct contact with the authorized individual responsible for certification of technical data. The authorized individual shall be familiar with the Contractor's technical data conformity procedures and their application to the technical data to be certified and delivered.

(c) Technical data delivered under this contract may be subject to reviews by the Government during preparation and prior to acceptance. Technical data is also subject to reviews by the Government subsequent to acceptance. Such reviews may be conducted as a function ancillary to other reviews, such as in-process reviews or configuration audit reviews.

(End of clause)

[53 FR 43716, Oct. 28, 1988]

252.227-7037 Validation of restrictive markings on technical data.

As prescribed in 227.473-4(a) insert the following clause:

VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (APR 1988)

(a) *Definitions.* The terms used in this clause are defined in the clause at DFARS 252.227-7013 of the Department of Defense Federal Acquisition Regulation Supplement (DFARS).

(b) *Justification.* The Contractor or subcontractor at any tier is responsible for maintaining records sufficient to justify the validity of its markings that impose restrictions on the Government and others to use, duplicate, or disclose technical data delivered or required to be delivered under the contract or subcontract, and shall be prepared to furnish to the Contracting Officer a written justification for such restrictive markings in response to a challenge under paragraph (d) below.

(c) *Prechallenge Request for Information.* (1) The Contracting Officer may request the Contractor or subcontractor to furnish a written explanation for any restriction asserted by the Contractor or subcontractor on the right of the United States or others to use technical data. If, upon review of the explanation submitted, the Contracting Officer remains unable to ascertain the basis of the restrictive marking, the Contracting Officer may further request the Contractor or subcontractor to furnish additional information in the record of, or otherwise in the possession of or reasonably available to, the Contractor or subcontractor to justify the validity of any restrictive marking on technical data delivered or to be delivered under the contract or subcontract (e.g., a statement of facts accompanied with supporting documentation). The Contractor or subcontractor shall submit such written data as requested by the Contracting Officer within the time required or such longer period as may be mutually agreed.

(2) If the Contracting Officer, after reviewing the written data furnished pursuant to paragraph (c)(1) above, or any other available information pertaining to the validity of a restrictive marking, determines that reasonable grounds exist to question the current validity of the marking and that continued adherence to the marking would make impracticable the subsequent competitive acquisition of the item, component, or process to which the technical data relates, the Contracting Officer shall follow the procedures in (d) below.

(3) If the Contractor or subcontractor fails to respond to the Contracting Officer's request for information under paragraph (c)(1) above, and the Contracting Officer determines that continued adherence to the marking would make impracticable the subsequent competitive acquisition of the item, component, or process to which the technical data relates, the Contracting Officer may challenge the validity of the marking as described in paragraph (d) below.

(d) *Challenge.* (1) Notwithstanding any provision of this contract concerning inspection and acceptance, if the Contracting Officer determines that a challenge to the restrictive marking is warranted, the Contracting Officer shall send a written challenge notice to the Contractor or subcontractor asserting the restrictive markings. Such challenge shall:

(i) State the specific grounds for challenging the asserted restriction;

(ii) Require a response within sixty (60) days justifying and providing sufficient evidence as to the current validity of the asserted restriction; and

(iii) State that a DoD Contracting Officer's final decision, issued pursuant to paragraph (f) below, sustaining the validity of a restrictive marking identical to the asserted restriction, within the three-year period preceding the challenge, shall serve as justification for the asserted restriction if the validated restriction was asserted by the same Contractor or subcontractor (or any licensee of such Contractor or subcontractor) to which such notice is being provided.

(iv) State that failure to respond to the challenge notice may result in issuance of a final decision pursuant to paragraph (e) below.

(2) The Contracting Officer shall extend the time for response as appropriate if the Contractor or subcontractor submits a written request showing the need for additional time to prepare a response.

(3) The Contractor's or subcontractor's written response shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), and shall be certified in the form prescribed by FAR 33.207, regardless of dollar amount.

(4) A Contractor or subcontractor receiving challenges to the same restrictive markings from more than one Contracting Officer shall notify each Contracting Officer of the existence of more than one challenge. The notice shall also state which Contracting Officer initiated the first in time unanswered challenge. The Contracting Officer initiating the first in time unanswered challenge after consultation with the Contractor or subcontractor and the other Contracting Officers, shall formulate and distribute a schedule for responding to each of the challenge notices to all interested parties. The schedule shall afford the Contractor or subcontractor an opportunity to respond to each challenge notice. All parties will be bound by this schedule

(e) *Final Decision When Contractor or Subcontractor Fails to Respond.* Upon a failure of a Contractor or subcontractor to submit any response to the challenge notice, the Contracting Officer will issue a final decision to the Contractor or subcontractor in accordance with the Disputes clause at FAR 52.233-1, pertaining to the validity of the asserted restriction. This final decision shall be issued as soon as possible after the expiration of the time period of paragraph (d)(1)(ii) or (d)(2) above. Following the issuance of the final decision, the Contracting Officer will comply with the procedures in (f)(2) (ii) through (iv) below.

(f) *Final Decision When Contractor or Subcontractor Responds.* (1) If the Contracting Officer determines that the Contractor or subcontractor has justified the validity of the restrictive marking, the Contracting Officer shall issue a final decision to the Contractor or subcontractor sustaining the validity of the restrictive marking, and stating that the Government will continue to be bound by the restrictive marking. This final decision shall be issued within sixty (60) days after receipt of the Contractor's or subcontractor's response to the challenge notice, or within such longer period that the Contracting Officer has notified the Contractor or subcontractor that the Government will require. The notification of a longer period for issuance of a final decision will be made within sixty (60) days after receipt of the response to the challenge notice.

(2)(i) If the Contracting Officer determines that the validity of the restrictive marking is not justified, the Contracting Officer shall issue a final decision to the Contractor or subcontractor in accordance with the Disputes clause at FAR 52.233-1. Notwithstanding paragraph (e) of the Disputes clause, the final decision shall be issued within sixty (60) days after receipt of the Contractor's or subcontractor's response to the challenge notice, or within such longer period that the Contracting Officer has notified the Contractor or subcontractor of the longer period that the Government will require. The notification of a longer period for issuance of a final decision will be made within sixty (60) days after receipt of the response to the challenge notice.

(ii) The Government agrees that it will continue to be bound by the restrictive marking for a period of ninety (90) days from the issuance of the Contracting Officer's final decision under paragraph (f)(2)(i) of this clause. The Contractor or subcontractor agrees that, if it intends to file suit in the United States Claims Court it will provide a notice of intent to file suit to the Contracting Officer within ninety (90) days from the issuance of the Contracting Officer's final decision under paragraph (f)(2)(i) of this clause. If the Contractor or subcontractor fails to appeal, file suit, or provide a notice of intent to file suit to the Contracting Officer within the ninety (90)-day period, the Government may cancel or ignore the restrictive markings, and the failure of the Contractor or subcontractor to take the required action constitutes agreement with such Government action.

(iii) The Government agrees that it will continue to be bound by the restrictive marking where a notice of intent to file suit in the United States Claims Court is provided to the Contracting Officer within ninety (90) days from the issuance of the final decision under paragraph (f)(2)(i) of this clause. The Government will no longer be bound, and the Contractor or subcontractor agrees that the Government may strike or ignore the restrictive markings, if the Contractor or subcontractor fails to file its suit within one (1) year after issuance of the final decision. Notwithstanding the foregoing, where the head of an agency determines, on a nondelegable basis, that urgent or compelling circumstances will not permit waiting for the filing of a suit in the United States Claims Court, the Contractor or subcontractor agrees that the agency may, following notice to the Contractor or subcontractor, authorize release of disclosure of the technical data. Such agency determination may be made at any time after issuance of the final decision and will not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(iv) The Government agrees that it will be bound by the restrictive marking where an appeal or suit is filed pursuant to the Contract Disputes Act until final disposition by an agency Board of Contract Appeals or the United States Claims Court. Notwithstanding the foregoing, where the head of an agency determines, on a nondelegable basis, following notice to the Contractor that urgent or compelling circumstances will not permit awaiting the decision by such Board of Contract Appeals or the United States Claims Court, the Contractor or subcontractor agrees that the agency may authorize release or disclosure of the technical data. Such agency determination may be made at any time after issuance of the final decision and will not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(g) *Final Disposition of Appeal or Suit.* (1) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is sustained—

(i) The restrictive marking on the technical data shall be cancelled, corrected or ignored; and

(ii) If the restrictive marking is found not to be substantially justified, the Contractor or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the restrictive marking and the fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Government in challenging the marking, unless special circumstances would make such payment unjust.

(2) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is not sustained—

(i) The Government shall continue to be bound by the restrictive marking; and

(ii) The Government shall be liable to the Contractor or subcontractor for payment of fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Contractor or subcontractor in defending the marking, if the challenge by the Government is found not to have been made in good faith.

(h) *Duration of Right to Challenge.* The Government may review the validity of any restriction on technical data, delivered or to be delivered under a contract, asserted by the Contractor or subcontractor. During the period within three (3) years of final payment on a contract or within three (3) years of delivery of the technical data to the Government, whichever is later, the Contracting Officer may review and make a written determination to challenge the restriction. The Government may, however, challenge a restriction on the release, disclosure or use of technical data at any time if such technical data (1) is publicly available; (2) has been furnished to the United States without restriction; or (3) has been otherwise made available without restriction. Only the Contracting Officer's final decision resolving a formal challenge by sustaining the validity of a restrictive marking constitutes "validation" as addressed in 10 U.S.C. 2321. A decision by the Government, or a determination by the Contracting Officer, to not challenge the restrictive marking or asserted restriction shall not constitute "validation".

(i) *Privity of Contract.* The Contractor or subcontractor agrees that the Contracting Officer may transact matters under this clause directly with subcontractors at any tier that assert restrictive markings. However, this clause neither creates nor implies privity of contract between the Government and subcontractors.

(j) *Flowdown.* The Contractor or subcontractor agrees to insert this clause in subcontracts at any tier requiring the delivery of technical data.

(End of clause)

[53 FR 43716, Oct. 28, 1988; 53 FR 50417, Dec. 15, 1988]

252.227-7038 [Reserved]

252.227-7039 Patents—reporting of subject inventions.

As prescribed at 227.303(a)(70), insert the following clause:

PATENTS—REPORTING OF SUBJECT INVENTIONS (APR 1990)

The Contractor shall furnish the Contracting Officer the following:

(a) Interim reports every twelve (12) months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period and stating that all subject inventions have been disclosed or that there are no such inventions.

(b) A final report within three (3) months after completion of the contracted work, listing all subject inventions or stating that there were no such inventions.

(c) Upon request, the filing date, serial number and title, a copy of the patent application and patent number, and issue data for any subject invention for which the Contractor has retained title.

(d) Upon request, the Contractor shall furnish the Government as irrevocable power to inspect and make copies of the patent application file.

(End of clause)

[55 FR 19081, May 8, 1990]

252.228-7000 Reimbursement for war hazard losses.

As prescribed at 228.305(e)(2), insert the following clause:

REIMBURSEMENT FOR WAR HAZARD LOSSES (JUL 1968)

(a) The Contractor's costs for assuming liability for employee protection against war hazard risks pursuant to paragraph (b) of the clause of this contract entitled "Workers' Compensation and War Hazard Insurance" shall be an allowable cost under this contract, subject to the following:

(i) The Contractor shall submit proof of loss files to support payment or denial of each claim.

(ii) As soon as practicable, but no later than one year after the expiration or termination of this contract, unless the time shall be extended by the Contracting Officer, the Contractor shall convert each claim which has not been finally settled into a suitable arrangement under which the claim can be extinguished by the Contractor with a lump sum payment. Subject to approval by the Contracting Officer, the Contractor shall thereupon obtain necessary release documents and settle the claim by lump sum arrangement, taking into account any payments previously made.

(iii) As to any potential claim which is known to, or reasonably should be within the knowledge of, the Contractor at the time of final settlement under this contract, the Contractor shall, at that time, present to the Government a full report and evaluation, indicating as to each potential claim that a reasonable investigation of the circumstances has been made, the results thereof, an evaluation of the merits, and an estimate of the amount involved should the potential claim mature into a valid obligation.

(iv) The cost of insurance against a liability reimbursable under this clause shall not be an allowable cost or otherwise recoverable under this contract.

(b) The Government may require the Contractor to assign to the Government in the manner, at the times, and to the extent directed by the Contracting Officer all right, title and interest of the Contractor to any refund, rebate or recapture arising out of any claim settlement. The Government may handle such assigned entitlements in such manner as it deems appropriate and may recover any benefits related to claim settlements.

(c) The Contractor shall, as soon as practicable after an occurrence which appears to give rise to a claim under this portion of the contract, perform such investigations as may be appropriate and promptly notify the Contracting Officer in writing of any additional amount estimated to be necessary to be obligated on account of such claim or potential claim. In addition, the Contractor shall give the Government or its representatives immediate written notice of any suit or action filed, the cost or expense of which may be reimbursable to the Contractor under this clause. The Contractor agrees to render full assistance to the Government in connection with any third party suit or claim relating to this clause or its subject matter which the Government elects to prosecute or defend in its own behalf.

(End of clause)

252.228-7001 Ground and flight risk.

As prescribed at 228.306(a)(1), insert the following clause:

GROUND AND FLIGHT RISK (OCT 1975

(a) Notwithstanding any other provisions of this contract, except as may be specifically provided in the Schedule as an exception to this clause, the Government, subject to the definitions and limitations of this clause, assumes the risk of damage to, or loss or destruction of, aircraft "in the open" during "operation", and in "flight", as these terms are defined below, and agrees that the Contractor shall not be liable to the Government for any such damage, loss, or destruction, the risk of which is so assumed by the Government.

(b) For the purposes of this clause:

(i) Unless otherwise specifically provided in the Schedule, the term "aircraft" means—

(A) Aircraft (including (I) complete aircraft, and (II) aircraft in the course of being manufactured, disassembled, or reassembled; *Provided*, that an engine or a portion of a wing or a wing is attached to a fuselage of such aircraft) to be furnished to the Government under this contract (whether before or after acceptance by the Government); and

(B) Aircraft (regardless of whether in a state of disassembly or reassembly) furnished by the Government to the Contractor under this contract; including all property installed therein, or in the process of installation, or temporarily removed from such aircraft; *Provided*, however, that such aircraft and property are not covered by a separate bailment agreement.

(ii) The term "in the open" means located wholly outside of buildings on the Contractor's premises or at such other places as may be described in the Schedule as being in the open for the purposes of this clause, except that aircraft furnished by the Government shall be deemed to be in the open at all times while in Contractor's possession, care, custody, or control.

(iii) The term "flight" means any flight demonstration, flight test, taxi test, or other flight, made in the performance of this contract, or for the purpose of safeguarding the aircraft, or previously approved in writing by the _____.* With respect to land based aircraft, "flight" shall commence with the taxi roll from a flight line on the Contractor's premises, and continue until the aircraft has completed the taxi roll in returning to a flight line on the Contractor's premises; with respect to seaplanes, "flight" shall commence with the launching from a ramp on the Contractor's premises and continue until the aircraft has completed its landing run upon return and is beached at a ramp on the Contractor's premises; with respect to helicopters, "flight" shall commence upon engagement of the rotors for the purpose of take-off from the Contractor's premises and continue until the aircraft has returned to the ground on the Contractor's premises and the rotors are disengaged; and with respect to vertical take-off aircraft, "flight" shall commence upon disengagement from any launching platform or device on the Contractor's premises and continue until the aircraft has been reengaged to any launching platform or device on the Contractor's premises. *Provided*, however, that aircraft off the Contractor's premises shall be deemed to be in flight when on the ground or water only during periods of reasonable duration following emergency landing, other landings made in the performance of this contract, or landings approved by _____* in writing.

(iv) The term "Contractor's premises" means those premises designated as such in the Schedule or in writing by the _____,* and any other place to which aircraft are moved for the purpose of safeguarding the aircraft.

(v) The term "operation" means operations and tests, other than on any production line, of aircraft, when not in flight, whether or not the aircraft is in the open or in motion during the making of any such operations or tests, and includes operations and tests of equipment, accessories, and power plants, only when installed in aircraft.

(vi) The term "flight crew members" means the pilot, the co-pilot and unless otherwise specifically provided in the Schedule, the flight engineer, navigator, bombardier-navigator, and defensive systems operator, when required, or assigned to their respective crew positions, to conduct any flight on behalf of the Contractor.

(c)(1) The Government's assumption of risk under this clause, as to aircraft in the open, shall continue in effect unless terminated pursuant to subparagraph (3) below. Where the _____* finds that any of such aircraft is in the open under unreasonable conditions, that Government representative shall notify the Contractor in writing of the conditions the representative finds to be unreasonable and require the Contractor to correct such conditions within a reasonable time.

(2) Upon receipt of such notice, the Contractor shall act promptly to correct such conditions, regardless of whether the Contractor agrees that such conditions are in fact unreasonable. To the extent that the Contracting Officer may later determine that such conditions were not in fact unreasonable, an equitable adjustment shall be made in the contract price to compensate the Contractor for any additional costs it incurred in correcting such conditions and the contract shall be modified in writing accordingly. Any dispute as to the unreasonableness of such conditions or the equitable adjustment shall be deemed to be a dispute concerning a question of the fact within the meaning of the clause of this contract entitled "Disputes".

(3) If the _____* finds that the Contractor failed to act promptly to correct such conditions or has failed to correct such conditions within a reasonable time, that Government representative may terminate the Government's assumption of risk under this clause, as to any of the aircraft which is in the open under such conditions, such termination to be effective at 12:01 A.M. on the fifteenth day following the day of receipt by the Contractor of written notice thereof. If the Contracting Officer later determines that the Contractor acted promptly to cor-

rect such conditions or that the time taken by the Contractor was not in fact unreasonable, an equitable adjustment shall, notwithstanding paragraph (g) of this clause, be made in the contract price to compensate the Contractor for any additional costs it incurred as a result of termination of the Government's assumption of risk under this clause and the contract shall be modified in writing accordingly. Any dispute as to whether the Contractor failed to act promptly to correct such conditions, or as to the reasonableness of the time for correction of such conditions, or as to such equitable adjustment, shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(4) In the event the Government's assumption of risk under this clause is terminated in accordance with (3) above, the risk of loss with respect to Government-furnished property shall be determined in accordance with the clause of this contract, if any, entitled "Government Property" until the Government's assumption of risk is reinstated in accordance with (5) below.

(5) When unreasonable conditions have been corrected, the Contractor shall promptly notify the Government thereof. The Government may elect to again assume the risks and relieve the Contractor of liabilities as provided in this clause, or not, and the ______* shall notify the Contractor of the Government's election. If, after correction of the unreasonable conditions the Government elects to again assume such risks and relieve the Contractor of such liabilities, the Contractor shall be entitled to an equitable adjustment in the contract price for costs of insurance, if any, extending from the end of the third working day after the Contractor notifies the Government of such correction until the Government notifies the Contractor of such election. If the Government elects not to again assume such risks, and such conditions have in fact been corrected, the Contractor shall be entitled to an equitable adjustment for costs of insurance, if any, extending after such third working day.

(d) The Government's assumption of risk shall not extend to damage to, or loss or destruction of, such aircraft:

(i) Resulting from failure of the Contractor, due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel, to maintain and administer a program for the protection and preservation of aircraft in the open, and during operation, in accordance with sound industrial practice (the term "Contractor's managerial personnel" means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantial all of the Contractor's operations at any o plant or separate location at which this co tract is performed, or a separate and co plete major industrial operation in conne tion with the performance of this contrac

(ii) Sustained during flight if the flig crew members conducting such flight ha not been approved in writing by the ____

(iii) While in the course of transportatio by rail, or by conveyance on public stree highways, or waterways, except for Gover ment-furnished property;

(iv) To the extent that such damage, lo or destruction is in fact covered by insu ance;

(v) Consisting of wear and tear, deterior tion (including rust and corrosion), freezin or mechanical, structural, or electric breakdown or failure, unless such damage the result of other loss, damage, or destru tion covered by this clause; *Provided*, how ever in the case of Government-furnishe property, if such damage consists of reason able wear and tear or deterioration, or r sults from inherent vice in such property this exclusion shall not apply; or

(vi) Sustained while the aircraft is bein worked upon and directly resulting therefrom, including but not limited to any repairing, adjusting, servicing or maintenanc operation, unless such damage, loss, or destruction, is of a type which would be co ered by insurance which would customarily have been maintained by the Contractor a the time of such damage, loss, or destruction, but for the Government's assumption of risk under this clause.

(e) With the exception of damage to, or loss or destruction of aircraft in "flight", the Government's assumption of risk under this clause shall not extend to the first $1,000 of loss or damage resulting from each event separately occurring. The Contractor assumes the risk of and shall be responsible for the first $1,000 of loss of or damage to aircraft "in the open" or during "operation" resulting from each event separately occurring, except for reasonable wear and tear and except to the extent the loss or damage is caused by negligence of Government personnel. If the Government elects to require that the aircraft be replaced or restored by the Contractor to the condition in which it was immediately prior to the damage, the equitable adjustment in the price authorized by paragraph (i) below shall not include the dollar amount of the risk assumed by the Contractor under this paragraph. In the event the Government does not elect repair or replacement, the Contractor agrees to credit the contract price or pay the Government $1,000 (or the amount of the loss if smaller) as directed by the Contracting Officer.

(f) A subcontractor shall not be relieved from liability for damage to, or loss or destruction of, aircraft while in the subcontractor's possession or control, except to the extent that the subcontract, with the prior written approval of the Contracting Officer, provides for relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of such aircraft in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract. Where a subcontractor has not been relieved from liability for any damage, loss, or destruction of aircraft and any damage, loss, or destruction occurs, the Contractor shall enforce the liability of the subcontractor for such damage to, or loss or destruction of, the aircraft for the benefit of the Government.

(g) The Contractor warrants that the contract price does not and will not include, except as may be otherwise authorized in this clause, any charge or contingency reserve for insurance (including self-insurance funds or reserves) covering any damage to, or loss or destruction of, aircraft while in the open, during operation, or in flight, the risk of which has been assumed by the Government under the provisions of this clause, whether or not such assumption may be terminated as to aircraft in the open.

(h) In the event of damage to, or loss or destruction of, aircraft in the open, during operation, or in flight, the Contractor shall take all reasonable steps to protect such aircraft from further damage, separate damaged and undamaged aircraft, put all aircraft in the best possible order and further, except in cases covered by (e) above, the Contractor should furnish to the ______* a statement of:

(i) The damaged, lost, or destroyed aircraft;

(ii) The time and origin of the damage, loss or destruction;

(iii) All known interests in commingled property of which aircraft are a part; and

(iv) The insurance, if any, covering any part of the interest in such commingled property.

Except in cases covered by (e) above, an equitable adjustment shall be made in the amount due under this contract for expenditures made by the Contractor in performing his obligations under this paragraph (h), and this contract shall be modified in writing accordingly.

(i) If prior to delivery and acceptance by the Government any aircraft is damaged, lost, or destroyed and the Government has under this clause assumed the risk of such damage, loss or destruction, the Government shall either (1) require that such aircraft be replaced or restored by the Contractor to the condition in which it was immediately prior to such damage, or (2) shall terminate this contract with respect to such aircraft. In the event the Government requires that the aircraft be replaced or restored, an equitable adjustment shall be made in the amount due under this contract and in the time required for its performance, and this contract shall be modified in writing accordingly. If, in the alternative, this contract is terminated under this paragraph with respect to such aircraft and under this clause the Government has assumed the risk of such damage, loss, or destruction, the Contractor shall be paid the contract price for said aircraft (or, if applicable, any work to be performed on said aircraft) less such amounts as the Contracting Officer determines (1) that it would have cost the Contractor to complete the aircraft (or any work to be performed on said aircraft) together with anticipated profit, if any, on any such uncompleted work, and (2) to be the value, if any, of the damaged aircraft or any remaining portion thereof retained by the Contractor. The Contracting Officer shall have the right to prescribe the manner of disposition of the damaged, lost, or destroyed aircraft, or any remaining parts thereof; and, if any additional costs of such disposition are incurred by the Contractor, a further equitable adjustment will be made in the amount due to the Contractor. Failure of the parties to agree upon an equitable adjustment or upon the amount to be paid in the event of termination of the contract with respect to any aircraft, shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(j) In the event the Contractor is at any time reimbursed or compensated by any third person for any damage, loss, or destruction of any aircraft, the risk of which has been assumed by the Government under the provisions of this clause and for which the Contractor has been compensated by the Government, the Contractor shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such damage, loss, or destruction and, upon the request of the ______,* shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment or subrogation in favor of the Government) in obtaining recovery.

(End of clause)

*In the foregoing clause, insert in contracts of the Department of the Army, the Department of the Navy, the Department of the Air Force, and in contracts to be administered by the Defense Contract Administration Services the activity designated in combined regulation identified as Air Force Regulation 55-22, Army Regulation 95-20, NAVAIR Instruction 3710.1A, Defense Logistics Agency Regulation 8210.1, dated 8 October 1971, Subject: Requirements for Contractor Operating Procedures and Flight Crews, enclosure 1.

252.228-7002 Flight risks.

As prescribed at 228.307-2(S-70)(1), insert the following clause:

FLIGHT RISKS (OCT 1975)

(a) Notwithstanding any other provision of this contract, and particularly subparagraph (g)(1) of the "Government Property" clause and paragraph (c) of the "Insurance—Liability to Third Persons" clause, the Contractor shall not (i) be relieved of liability for, damage to, or loss or destruction of, aircraft sustained during flight, or (ii) be reimbursed for liabilities to third persons for loss of or damage to property, or for death or bodily injury, which are caused by aircraft during flight, unless the flight crew members have previously been approved in writing by _____.* (See footnote at end of clause.)

(b) For purposes of this clause:

(i) Unless otherwise specifically provided in the Schedule, the term "aircraft" means any aircraft, whether furnished by the Contractor under this contract (either before or after acceptance by the Government) or furnished by the Government to the Contractor under this contract, including all Government Property placed or installed therein or attached thereto; *Provided*, however, that such aircraft and property are not covered by a separate bailment agreement.

(ii) The term "flight" means any flight demonstration, flight test, taxi test, or other flight, made in the performance of this contract, or for the purpose of safeguarding the aircraft, or previously approved in writing by the _____.* (See footnote at end of clause.) As to land based aircraft, "flight" shall commence with the taxi roll from a flight line and continue until the aircraft has completed the taxi roll to a flight line; as to sea planes, "flight" shall commence with the launching from a ramp and continue until the aircraft has completed its landing run and is beached at a ramp; as to helicopters, "flight" shall commence upon engagement of the rotors for the purpose of take-off and continue until the aircraft has returned to the ground and rotors are disengaged; and for vertical take-off aircraft, "flight" shall commence upon disengagement from any launching platform or device and continue until the aircraft has been reengaged to any launching platform or device.

(iii) The term "flight crew members" means the pilot, the co-pilot and, unless otherwise specifically provided in the Schedule, the flight engineer, navigator, bombardier-navigator, and defense systems operator, when required, or assigned to their respective crew positions, to conduct any flight on behalf of the Contractor.

(c) If any aircraft is damaged, lost, or destroyed during flight, and if the amount of such damage, loss, or destruction exceeds one hundred thousand dollars ($100,000) or twenty percent (20%) of the estimated cost (exclusive of any fee) of this contract, whichever is less, and if the Contractor is not liable for the damage, loss or destruction pursuant to the "Government Property" clause of this contract together with paragraph (a) above, then an equitable adjustment for any resulting repair, restoration, or replacement that is required under this contract shall be made (i) in the estimated cost, delivery schedule, or both, and (ii) in the amount of any fee to be paid to the Contractor, and the contract shall be modified in writing accordingly; *Provided*, in determining the amount of adjustment in the fee that is equitable, any fault of the Contractor, the Contractor's employees, or any subcontractor, which materially contributed to the damage, loss, or destruction shall be taken into consideration. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(End of clause)

* In the foregoing clause, insert in contracts of the Department of the Army, the Department of the Navy, the Department of the Air Force, and in contracts to be administered by the Defense Contract Administration Services the activity designated in combined regulation identified as Air Force Regulation 55-22, Army Regulation 95-20, NAVAIR Instruction 3710.1A, Defense Logisitics Agency Regulation 8210.1, dated 8 October 1971, Subj: Requirements for Contractor Operating Procedures and Flight Crews, enclosure 1.

In the foregoing clause, the definition of "aircraft" may be appropriately modified in the Schedule if the contract covers helicopters, vertical take-off aircraft, lighter-than-air airships, or other nonconventional types of aircraft.

252.228-7003 Capture and detention.

As prescribed at 228.309(S-70), insert the following clause:

CAPTURE AND DETENTION (JUN 1968)

(a) As used in this clause:

(1) "Captured person" means any employee of the Contractor—

(i) Who is assigned to duty outside the United States for the performance of this contract, and

(ii) Who is found to be missing from that person's place of employment under circumstances that make it appear probable that that person's absence is due to the action of the force of any power not allied with the United States in a common military effort, or who is known to have been taken prisoner, hostage, or otherwise detained by the force of any such power, whether or not such person is actually engaged in that person's employment at the time of capture; *Provided*, that at the time the person was captured and detained the person was either:

(A) Engaged in activity directly arising out of the course of that person's employment under this contract, or

(B) Captured in an area in which the captured person was present only because such presence was required in order to perform this contract;

(2) A "period of detention" begins with the day of capture and continues until the captured person is returned to the person's place of employment, or to the United States, or is able to be returned to the jurisdiction of the United States, or until the person's death is in fact established or legally can be presumed to have occurred by evidence satisfactory to the Contracting Officer, whichever shall occur first;

(3) "United States" comprises geographically the fifty states and the District of Columbia; and

(4) "War Risk Hazards Compensation Act" refers to the statute compiled in Chapter 12 of Title 42, U.S. Code (sections 1701-1717), as amended.

(b) If pursuant to an agreement entered into prior to the capture, the Contractor is obligated to pay and shall have paid benefits to a captured person, or the person's dependents, on account of detention, the Government will reimburse the Contractor for such payments up to an amount which will equal the lesser of (i) the total wage or salary (computed at the rate being paid at the time of capture) due from the Contractor to the captured person for the period of detention, or (ii) that amount which would have been payable to such person if the detention had occurred under circumstances wherein the benefit provisions of the War Risk Hazards Compensation Act would have been applicable.

(c) The period of detention shall not be considered as time spent in the performance of this contract, and the Government shall not be obligated to make payment under this contract on account of such person for the period of the detention except as provided in this clause.

(d) The obligation of the Government to make payments provided for by this clause shall be applicable to the entire period of detention except that it is expressly conditioned upon and subject to the availability of funds from which payment can be made. The rights and obligations of the parties under this clause shall survive the earlier expiration, completion or termination of this contract.

(e) The Contractor shall not be reimbursed under the provisions of this clause for payments made to employees for a period of detention during which the employees were entitled to compensation for capture and detention under the War Risk Hazards Compensation Act, as amended.

(End of clause)

252.228-7004 Bonds or other security.

As prescribed at 228.103-2(a)(4), insert the following provision:

BONDS OR OTHER SECURITY (APR 1977)

A bid guarantee in the penal sum of $_____ must accompany the bid. Within ten (10) days after receipt of a notice of award, the Contractor shall furnish a performance bond (Standard Form 25) in the penal sum of $_____ and payment, in full, of any sum due the Government. The bond of any surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds will be accepted. Individual sureties will be accepted if each such surety deposits with the Contracting Officer cash, bonds, or notes of the United States, or certified check drawn to the order of the office designated for contract administration, or such other security as the Contracting Officer may deem necessary, for the required amount of the guaranty, under the agreement that the collateral so deposited shall remain in the possession and control of the Treasurer of the United States until the completion of the contract. The formal contract and notice to proceed will be issued on receipt of an acceptable performance bond and payment of any sum due the Government.

(End of provision)

252.228-7005 [Reserved]

252.228-7006 Accident reporting and investigation involving aircraft, missiles, and space launch vehicles.

As prescribed at 228.7101, insert the following clause:

ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES (JAN 1969)

(a) The Contractor shall report promptly to the Administrative Contracting Officer all pertinent facts relating to each accident involving an aircraft, missile, or space launch vehicle being manufactured, modified, repaired, or overhauled under or in connection with this contract.

(b) If the Government elects to conduct an investigation of the accident, the Contractor will cooperate fully and assist the Government's personnel until the investigation is completed.

(c) The Contractor will include a clause in each of the Contractor's applicable subcontracts to require subcontractor cooperation and assistance in accident investigation under this clause.

(End of clause)

252.228-7007 Bid bond.

As prescribed in 228.101-3(b), insert the following clause in solicitations and contracts:

BID BOND (MAR 1989)

(a) The Offeror (Bidder) shall furnish a separate bid bond, or United States bonds, Treasury notes or other public debt obligations of the United States, in the proper form and amount, by the time set for opening of bids. Failure to do so may be cause for rejection of the bid. The Contracting Officer will return bonds or notes of the United States (1) to unsuccessful bidders as soon as practicable after the opening of bids; and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(b) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(c) Unless otherwise specified in the bid, the Bidder will (1) allow sixty (60) days for acceptance of its bid; and (2) give bond within ten (10) days after receipt of the forms by the Bidder.

(d) In the event the contract is terminated for default, the Bidder is liable for any cost of acquiring the work that exceeds the amount of its bid. The bid bond, or bonds or notes of the United States, is available to offset the difference.

(End of clause)

[54 FR 16120, Apr. 21, 1989]

252.229-7000 Fixed-price, into-plane, fuel contracts at overseas locations.

As prescribed at 229.402-1(S-70), insert the following clause:

FIXED-PRICE, INTO-PLANE, FUEL CONTRACTS AT OVERSEAS LOCATIONS (JAN 1979)

(a) As used throughout this clause, the following terms shall have the meanings set forth below:

(1) The term "direct tax" means any foreign tax, duty, fee, or like charge, directly applicable to the completed supplies or services covered by this contract. It includes any foreign tax, duty, fee, or like charge, directly applicable to the importation, exportation, production, manufacture, distribution, transportation, storage, withdrawal from storage, handling, receipt, sale, or delivery of such supplies or services. The term does not include unemployment compensation taxes; social security taxes; income taxes; excess-profits taxes; capital stock taxes; property taxes, except such property taxes as are assessed either on completed supplies covered by this contract or on the Contractor's interest in or use of Government-owned property supplied under this contract; and such other taxes as are not within the definition of the term "direct tax" as set forth in this paragraph. If this contract provides for the furnishing of supplies in Puerto Rico, the term "direct tax" also includes the U.S. import tax on petroleum.

(2) The term "nonrefundable tax" means any direct tax which the Contractor is required to pay and, in respect to which, he is unable to obtain a refund or drawback.

(b) The contract prices do not include any direct tax.

(c) The Contractor shall use all reasonable efforts to collect all refunds or drawbacks due to the Contractor, either in its own right or under any rights and privileges arising out of this contract, of any direct tax which the Contractor is required to pay or bear the burden of.

(d) The Government shall reimburse the Contractor for any nonrefundable tax. Contractor invoices for such reimbursement shall be submitted separately on a monthly basis and, when applicable, shall show credit deductions for all refunds or drawbacks received by the Contractor.

(e) Prior to submitting an initial invoice for any nonrefundable tax, the Contractor shall furnish the Contracting Officer, for approval, a written statement in quadruplicate showing the nature of the nonrefundable tax, the unit rate thereof in U.S. dollars per U.S. gallon, and the airport and grade of product involved. The Contractor shall notify the Contracting Officer by a written statement in quadruplicate of any changes in said unit rates and of any additional nonrefundable tax. The Contracting Officer will inform the Accounting and Finance Office of his approval or disapproval of the rates for which reimbursement is sought. All invoices for any nonrefundable tax submitted by the Contractor shall be forwarded by the Contractor directly to the Accounting and Finance Officer, Attn: Examination Section, DLA Administrative Support Center, Cameron Station, Alexandria, Virginia, 22314, who will certify the invoices for payment only in accordance with unit rates for such taxes as approved by the Contracting Officer.

(f) The provisions of this paragraph (f) shall apply only to the extent that this contract is performed within any of the following foreign countries: Australia, the Bahamas, Bahrain, Barbados, Belgium, Canada, Republic of China, Denmark (including Greenland), Ethiopia, Federal Republic of Germany (including West Berlin), France, Greece, Iceland, Iran, Italy, Japan, Republic of Korea, Luxembourg, the Netherlands, New Zealand, Norway, Panama, the Philippines, Portugal (including the Azores), Saudi Arabia, Spain, Thailand, Trinidad and Tobago, Turkey, the United Kingdom (including Anegada Island, Antigua Island, Ascension Island, Bermuda, British Indian Ocean Territories (Diego Garcia), Mahe Island, and Turks and Caicos Island), and Yugoslavia. The contract price, including the price in subcontracts, does not include any tax or duty which the Government of the United States and the government of any of the foregoing countries have agreed shall not apply to expenditures in that country by the United States. If any such tax or duty has been included in the contract price through error or otherwise, the contract price shall be correspondingly reduced.

(End of clause)

252.231-7000 Supplemental cost principles.

As prescribed at 231.201, insert the following clause:

SUPPLEMENTAL COST PRINCIPLES (APR 1984)

When the allowability of costs under this contract is determined in accordance with Subpart 31.2 of the Federal Acquisition Regulation, the allowability of costs shall also be determined by the Contracting Officer in accordance with Subpart 231.2 of the DoD FAR Supplement in effect at the date of this contract.

(End of clause)

252.231-7001 Penalties for Unallowable Costs.

As prescribed at 231.7001(d)(1), insert the following clause:

PENALTIES FOR UNALLOWABLE COSTS (APR 1988)

(a) The Contractor is required, under the Allowable Cost and Payment clause in this contract, to submit proposed final indirect cost rates within ninety (90) days after the expiration of each of its fiscal years. The Contractor shall not include in any such submission any cost which is unallowable under the definition in Sections 31.001 and 31.201-6 of the Federal Acquisition Regulation (FAR).

(b) If the Contracting Officer determines by clear and convincing evidence that a cost submitted by the Contractor in its proposal for settlement of indirect costs incurred is unallowable, the Contractor shall be assessed a penalty equal to (1) the amount of the disallowed cost allocated to this contract plus (2) simple interest, to be computed on the amount the Contractor was paid in excess of the amount to which the Contractor was entitled (see paragraph 231.7001(c) of the Department of Defense Supplement to the FAR). The simple interest will be computed using the applicable rate effective for each six month interval prescribed by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97).

(c) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal for settlement of indirect costs incurred includes a cost previously determined to be unallowable for the Contractor, then the Contracting Officer will assess an additional penalty in an amount equal to two times the amount of the unallowable cost.

(d) An assessment under (b) and (c) is a final decision within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 605, et seq.) and appealable in the manner provided in Section 7 of such Act (41 U.S.C. 606).

(e) The Government is entitled to assess an additional penalty of not more than ten thousand dollars ($10,000) per proposal, if any penalty is assessed under paragraph (b) or (c) above.

(f) Contractor submission of unallowable costs is also subject to the provisions of 18 U.S.C. 287 and 31 U.S.C. 3729.

(g) Payment by the Contractor of any penalty assessed under (b) or (c) above does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

(End of clause)

[52 FR 5772, Feb. 26, 1987; 52 FR 23836, June 25, 1987; 53 FR 28239, Sept. 29, 1988]

252.231-7002 Penalties for Unallowable Costs—Fixed-Price Incentive.

As prescribed at 231.7001(d)(2), insert the following clause:

PENALTIES FOR UNALLOWABLE COSTS—FIXED-PRICE INCENTIVE (APR 1988)

(a) 10 U.S.C. 2304 provides for certain penalties if a Contractor submits to the Department of Defense a proposal for settlement of indirect costs incurred by the Contractor for any period after such costs have been accrued if that proposal includes the submission of a cost which is unallowable under the definition in section 31.001 of the Federal Acquisition Regulation. The Contractor shall not include such unallowable costs in any such proposal.

(b) The term "proposal for settlement of indirect costs incurred" shall include—

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of his fiscal year which relates to any payment (such as a progress or billing payment or interim cost reimbursement) made on the basis of billing rates or which will be used in negotiating the final contract price, or

(2) The final statement of costs incurred and estimated to be incurred under the Incentive Price Revision clause which is used to establish the final contract price.

(c) If the Contracting Officer determines by clear and convincing evidence that a cost submitted by the Contractor in a proposal for settlement of indirect costs incurred is unallowable, the Contractor shall be assessed a penalty equal to (1) the amount to the disallowed cost allocated to this contract, plus (2) simple interest, to be computed on the amount the Contractor was paid, whether as a progress payment or billing payment, in excess of the amount to which the Contractor was entitled. The simple interest will be computed under the applicable rate effective for each six month interval prescribed by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97).

(d) If the Contracting Officer deterr
that a cost submitted by the Contracto
proposal for settlement of indirect cos
curred includes a cost previously detern
to be unallowable for the Contractor,
the Contracting Officer will assess an
tional penalty in an amount equal to
times the amount of the unallowable co

(e) The determination of the Contra
Officer under (c) and (d) is a final de
within the meaning of the Contract
putes Act of 1978 (41 U.S.C. 605 et seq.)

(f) The Government is entitled to
an additional penalty of not more tha
thousand dollars ($10,000) per propo
any penalty is assessed under (c) o
above.

(g) Contractor submission of unallo
costs is also subject to the provisions
U.S.C. 287 and 31 U.S.C. 3729.

(h) Payment by the Contractor of
penalty assessed under (c) or (d) above
not constitute repayment to the Go
ment of any unallowable cost which
been paid by the Government to the
tractor.

(End of clause)

[52 FR 5772, Feb. 26, 1987, as amended
FR 38239, 38240, Sept. 29, 1988]

252.232-7000 [Reserved]

252.232-7001 Advance payment pool.

As prescribed at 232.412(S-70), i
the following clause:

ADVANCE PAYMENT POOL (APR 1

Notwithstanding other provisions o
contract, advance payments will be ma
the work called for hereunder in accor
with the Determinations, Findings an
thorization for advance payments
____. Payments made pursuant to
clause shall be governed by the term
conditions of the Advance Payment
Agreement, as it may be amended from
to time, between the United States of
ica and ____ (insert the name of the
tractor), which agreement is hereby
porated by reference with the same
and effect as though fully set forth h

(End of clause)

252.232-7002 Disposition of payments

As prescribed at 232.412(S-71), i
the following clause:

DISPOSITION OF PAYMENTS (A
1984)

Payment will be by a dual payee Tre
check drawn payable to the contract
the ____ (insert name of the disbu

office designated in the advance payment pool agreement) and forwarded to the _____ (insert name of the disbursing office designated in the advance payment pool agreement) for appropriate disposition.

(End of clause)

252.232-7003 Progress payments for foreign military sales acquisitions.

As prescribed at 232.502-4(S-70), insert the following clause:

PROGRESS PAYMENTS FOR FOREIGN MILITARY SALES ACQUISITIONS (APR 1984)

If this contract includes FMS requirements, the contractor shall submit progress payment requests in accordance with the following:

(a) The contractor shall submit a separate progress payment request for each separate progress payment rate in this contract.

(b) The contractor shall submit a supporting schedule showing the amount of each request distributed to each country's requirements in the contract. This schedule shall also show the contract line items and total prices thereof applicable to each separate progress payment rate.

(c) Each progress payment request shall:

(1) Identify the contract requirements to which it applies, (i.e., FMS or U.S.).

(2) Be calculated on the basis of the prices, costs (including estimated costs to complete), subcontractor progress payments, and progress payment liquidations of the contract requirements to which it applies. The contractor in preparing these requests shall distribute costs among contract line items and countries in a manner acceptable to the Administrative Contracting Officer.

(End of clause)

252.232-7004 Flexible progress payments.

As prescribed at 232.502-4(S-71), insert the following clause:

FLEXIBLE PROGRESS PAYMENTS (OCT 1988)

This contract is subject to flexible progress payment procedures. The progress payment rate of this contract is ——%, and this percentage applies in lieu of the uniform, standard progress payment rate and liquidation rate of the "Progress Payments" clause. The progress payment rate of this contract was determined by the DoD Cash Flow Computer Model, (dated ———), using twenty percent (20%) as the targeted rate for the Contractor's investment (as a weighted average of costs) in its work in process inventory over the life of the contract. If actual and projected cash flow data generated during performance of this contract reveal that the progress payment rate will result in an investment in work in process inventory by the Contractor in excess of twenty-two percent (22%) or less than eighteen percent (18%), the progress payment rate shall be determined by using the DoD Cash Flow Computer Model. Unless it contained an error, the version of the DoD Cash Flow Computer Model that was used initially in this contract will be used for any redetermination permitted by this clause. In no event will the progress payment rate be less than the uniform, standard progress payment rate that would have applied to this contract absent flexible progress payment procedures, and in no event will the progress payment rate be greater than one hundred percent (100%). (End of clause.)

Alternate I (—-- 1988). If this contract is funded with FY 87 appropriations, change twenty percent (20%) to twenty-five percent (25%), change twenty-two percent (22%) to twenty-seven percent (27%), and change eighteen percent (18%) to twenty-three percent (23%).

[53 FR 35512, Sept. 14, 1988]

252.232-7005 Payments under fixed-price construction contracts.

As prescribed in 232.111(S-71), insert the following clause:

PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (APR 1986) (DEV)

(a) The Government shall pay the Contractor the contract price as provided in this contract.

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets standards of quality established under the contract, as approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if—

(1) Consideration is specifically authorized by this contract; and

(2) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of fifteen percent (15%) of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(d) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as—

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(e) In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (c) above shall not apply to that portion of progress payments attributable to bond premiums.

(f) The Government shall pay the amount due the Contractor under this contract after—

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(g) Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract
tions. A "contract action" is any actior
sulting in a contract, as defined in I
Subpart 2.1, including contract modi
tions for additional supplies or services,
not including contract modifications
are within the scope and under the term
the contract, such as contract modifica
issued pursuant to the Changes clause
funding and other administrative chang

(End of clause)

[53 FR 38186, Sept. 29, 1988]

252.232-7006 Payments under fixed-p
architect-engineer contracts.

As prescribed in 232.111(S-72), in
the following clause:

PAYMENTS UNDER FIXED-PRICE ARCHITE
ENGINEER CONTRACTS (AUG 1987) (DEV

(a) Estimates shall be made monthl
the amount and value of the work ac
plished and services performed by the
tractor under this contract which
standards of quality established under
contract. The estimates shall be prep
by the Contractor and accompanied by
supporting data required by the Contra
Officer.

(b) Upon approval of the estimate by
Contracting Officer, payment upon pr
ly executed vouchers shall be made to
Contractor, as soon as practicable, of ei
five percent (85%) of the approved am
less all previous payments; *provided*,
payment may be made in full during
months in which the Contracting Of
determines that performance has been
factory. Also, whenever the Contractin
ficer determines that the work is sub
tially complete and that the amoun
tained is in excess of the amount ade
for the protection of the Government
Contracting Officer may release the e
amount to the Contractor.

(c) Upon satisfactory completion by
Contractor and acceptance by the Cont
ing Officer of the work done by the
tractor under the "Statement of Arch
Engineer Services", the Contractor wi
paid the unpaid balance of any money
for work under the statement, includin
tained percentages relating to this po
of the work. If the Government exer
the option under the Option for Superv
and Inspection Services clause, pro
payments as provided in (a) and (b)
will be made for this portion of the con
work. Upon satisfactory completion
final acceptance of the construction
the Contractor shall be paid any unpaid
ance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

[53 FR 38187, Sept. 29, 1988]

252.232-7007 Progress payments.

(a) As prescribed in 232.502-4(S-72), insert the following clause in solicitations and fixed-price contracts under which the Government will provide progress payments based on costs. A different customary rate for small business concerns may be substituted in accordance with 232.502-4(S-73) for the progress payment and liquidation rate indicated.

(b) If an unusual progress payment rate is approved for the prime contractor (see FAR 32.501-2), the rate approved shall be substituted for the customary rate in paragraph (a)(1).

(c) If the liquidation rate is changed from the customary progress payment rate (see FAR 32.503-8 and FAR 32.503-9), the new rate shall be substituted for the rate in paragraphs (a)(4), (a)(5), and (b).

(d) If advance and progress payments are authorized in the same contract, the words "less any unliquidated advance payments" may be deleted from paragraph (a)(4) of this clause.

(e) If an unusual progress payment rate is approved for a subcontract (see FAR 32.504(b) and FAR 32.501-2), subparagraph (j)(4) shall be modified to specify the new rate, the name of the subcontractor, and that the new rate shall be used for that subcontractor in lieu of the customary rate.

PROGRESS PAYMENTS (OCT 1986)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly in amounts approved by the Contracting Officer, under the following conditions:

(a) *Computation of Amounts.*

(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) seventy-five percent (75%) of the Contractor's cumulative total costs under this contract, as shown by records maintained by the Contractor for the purpose of obtaining payment under Government contracts, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) The following conditions apply to the timing of including costs in progress payment requests:

(i) The costs of supplies and services purchased by the Contractor directly for this contract may be included only after payment by cash, check, or other form of actual payment.

(ii) Costs for the following may be included when incurred, even if before payment, when the Contractor is not delinquent in payment of the costs of contract performance in the ordinary course of business:

(A) Materials issued from the Contractor's stores inventory and placed in the production process for use on this contract.

(B) Direct labor, direct travel, and other direct in-house costs.

(C) Properly allocable and allowable indirect costs.

(iii) Accrued costs of Contractor contributions under employee pension, profit sharing, and stock ownership plans shall be excluded until actually paid unless—

(A) The Contractor's practice is to contribute to the plans quarterly or more frequently; and

(B) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contributions remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

(iv) If the contract is subject to the special transition method authorized in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General and Administrative

Expense to Final Cost Objective, General and Administrative expenses (G&A) shall not be included in progress payment requests until the suspense account prescribed in CAS 410 is less than—

(A) Five million dollars ($5 million); or

(B) The value of the work-in-process inventories under contracts entered into after the suspense account was established (only a pro rata share of the G&A allocable to the excess of the inventory over the suspense account value is includable in progress payment requests under this contract).

(3) The Contractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:

(i) Costs that are not reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices.

(ii) Costs incurred by subcontractors or supplies.

(iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(iv) Payments made or amount payable to subcontractors or suppliers, except for—

(A) completed work, including partial deliveries, to which the Contractor has acquired title; and

(B) Work under cost-reimbursement or time-and-material subcontracts to which the Contractor has acquired title.

(4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this contract, for which delivery and invoicing by the Contractor and acceptance by the Government are incomplete.

(5) The total amount of progress payments shall not exceed seventy-five percent (75%) of the total contract price.

(6) If a progress payment or the unliquidated progress payments exceed the amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Contractor shall repay the amount of such excess to the Government on demand.

(b) *Liquidation.* Except as provided in the Termination for Convenience of the Government clause, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or seventy-five percent (75%) of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or Suspension.* The Contracting Officer may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (f) and (g) below).

(2) Performance of this contract is endangered by the Contractor's (i) failure to make progress or (ii) unsatisfactory financial condition.

(3) Inventory allocated to this contract substantially exceeds reasonable requirements.

(4) The Contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract.

(6) The Contractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.

(d) *Title.*

(1) Title to the property described in this paragraph (d) shall vest in the Government. Investiture shall be immediately upon the date of this contract, for property acquired or produced before that date. Otherwise, investiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property", as used in this clause, includes all of the below-described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract.

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (d)(2)(ii) above; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract, e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract without requesting the Contracting Officer's approval, but the proceeds shall be credited against the costs of performance.

(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. The Contractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to the Government any amount of liquidated progress payments allocable to the property.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all progress payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(e) *Risk of Loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

(f) *Control of Costs and Property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and Access to Records.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.

(h) *Special Terms Regarding Default.* If this contract is terminated under the Default clause, (i) the Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments and (ii) title vest in the Contractor, on full liquidation of progress payments, for all property for which the Government elects not to require delivery under the Default clause. The Government shall be liable for no payment except as provided by the Default clause.

(i) *Reservations of Rights.*

(1) No payment or vesting of title under this clause shall (i) excuse the Contractor from performance of obligations under this contract or (ii) constitute a waiver of any of the rights to remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause (i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this contract and (ii) shall not be affected by delayed, partial, or omitted excercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(j) *Progress Payments to Subcontractors.* The amounts mentioned in (a)(1)(ii) above shall be all progress payments to subcontractors or divisions, if the following conditions are met:

(1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any paid subcontractor requests for progress payments that the Contractor has approved for current payment in the ordinary course of business.

(2) The subcontract or interdivisional order is expected to involve a minimum of approximately six (6) months between the beginning of work and the first delivery, or, if the subcontractor is a small business concern, four (4) months.

(3) The terms of the subcontract or interdivisional order concerning progress payments—

(i) Are substantially similiar to the terms of the clause at 252.232-7007, Progess Payments, for any subcontractor that is a large business concern, or that clause with its Alternate I for any subcontractor that is a small business concern;

(ii) Are at least as favorable to the Government as the terms of this clause;

(iii) Are not more favorable to the subcontractor or division than the terms of this clause are to the Contractor;

(iv) Are in conformance with the requirements of paragraph 32.504(e) of the Federal Acquisition Regulation; and

(v) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if (A) the Contractor defaults or (B) the subcontractor becomes bankrupt or insolvent.

(4) The progress payment rate in the subcontract is the customary rate used by the Contracting Agency, depending on whether the subcontractor is or is not a small business concern.

(5) The parties agree concerning any proceeds received by the Government for property to which title has vested in the Government under the subcontract terms, that the proceeds shall be applied to reducing any unliquidated progress payments by the Government to the Contractor under this contract.

(6) If no unliquidated progress payments to the Contractor remain, but there are unliquidated progress payments that the Contractor has made to any subcontractor, the Contractor shall be subrogated to all rights the Government obtained through the terms required by this clause to be any subcontract, as if all such rights had been assigned and transferred to the Contractor.

(7) The Contractor shall pay the subcontractor's progress payment request under subparagraph (j)(1)(ii) above, within a reasonable time after receiving the Government progress payment covering those amounts.

(8) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments to small business concerns, in conformity with the standards for customary progress payments stated in Subpart 32.5 of the Federal Acquisition Regulation. The Contractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of subcontracts.

(k) *Limitations on Undefinitized Contract Actions.* Notwithstanding any other progress payment provision in this contract, progress payments may not exceed eighty percent (80%) of costs incurred on work accomplished under undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a), and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on contractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purpose of progress payment liquidation, as described in paragraph (b), progress payments for undefinitized contract actions shall be liquidated at eighty percent (80%) of the amount invoiced for work performed under the undefinitized contract action as long as the contract action remains undefinitized. The amount of unliquidated progress payments for undefinitized contract actions shall not exceed eighty percent (80%) of the maximum liability of the Government under the undefinitized contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(End of clause)

Alternate I (OCT 1986). If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph (k) to the customary rate of eighty percent (80%) for small business concerns, delete subparagraphs (a)(1) and (a)(2) from the basic clause, and substitute the following subparagraphs (a)(1) and (a)(2):

(a) *Computation of Amounts.*

(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) eighty percent (80%) of the Contractor's total costs incurred under this contract whether or not actually paid, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless—

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

Alternate II (OCT 1986). If the contract is a letter contract, add paragraphs (l) and (m) shown below. The amount specified in paragraph (n) shall not exceed eighty percent (80%) applied to the maximum liability of the Government under the letter contract. Separate limits may be specified for separate parts of the work.

(l) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b), be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount

from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government shall allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and shall liquidate each portion under the relevant procedure in subparagraphs (1) and (2) above.

(4) If the method of liquidating progress payments provided above does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(m) The amount of unliquidated progress payments shall not exceed ——— (*Specify dollar amount*).

[53 FR 38187, Sept. 29, 1988, as amended at 54 FR 53621, Dec. 29, 1989]

252.233-7000 Certification of requests for adjustment or relief exceeding $100,000.

As prescribed at 233.7000, insert the following clause:

CERTIFICATION OF REQUESTS FOR ADJUSTMENT OR RELIEF EXCEEDING $100,000 (APR 1990)

(a) Any contract claim, request for equitable adjustment to contract terms, request for relief under Pub. L. 85-804, or other similar request exceeding $100,000 shall bear, at the time of submission, the following certificate given by a senior company official in charge at the plant or location involved:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested ccurately reflects the contract adjustment or which the Contractor believes the Government is liable.

____

Official's Name)

____

Title)

(b) The certification in paragraph (a) reuires full disclosure of all relevant facts, cluding cost and pricing data.

(c) The certification requirement in pararaph (a) does not apply to:

(1) requests for routine contract payents; for example, those for payment for cepted supplies and services, routine vouchers under cost-reimbursement type contracts, and progress payment invoices; and

(2) final adjustments under incentive provisions of contracts.

(d) In those situations where no claim certification for the purposes of section 813 has been submitted prior to the inception of a contract dispute, a single certification, using the language prescribed by the Contract Disputes Act but signed by a senior company official in charge at the plant or location involved, will be deemed to comply with both statutes.

(e) If this is a claim for equitable adjustment under a substantially completed contract or a completed contract, the certification will be expanded to include the following:

This claim includes only costs for performing the alleged change, and does not include any costs which have already been reimbursed or which have been separately claimed. All indirect costs claimed are properly allocable to the alleged change in accordance with applicable acquisition regulations. I am aware that the submission of a false claim to the Government can result in the assessment of significant penalties and fines, and that no proof of specific intent to defraud is required in either a civil or criminal prosecution for the submission of a false claim.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 55 FR 19082, May 8, 1990; 55 FR 30160, July 24, 1990]

252.234-7000 Notice of cost/schedule control systems.

As prescribed at 234.005-71, insert the following provision:

NOTICE OF COST/SCHEDULE CONTROL SYSTEMS (AUG 1985)

(a) The Offeror shall submit a comprehensive plan for compliance with the attached criteria (DoDI 7000.2, Performance Measurement for Selected Acquisitions) for the internal Cost/Schedule Control Systems which are and/or will be operational for any contract resulting from this solicitation, and which includes the C/SCSC clause set forth at 252.234-7001 of the DoD FAR Supplement. The Offeror shall identify the Offeror's existing management systems separately from proposed modifications to meet the criteria. The plan shall:

(1) Describe the management systems and their application in all major functional cost areas such as engineering, manufacturing and tooling, as related to development of the work breakdown structure, planning,

budgeting, scheduling, work authorization, cost accumulation, measurement and reporting of cost and schedule performance, variance analysis, and baseline control;

(2) Describe compliance with each of the criteria, preferably by cross-referencing appropriate elements in the description of systems with the items in the checklist for C/SCSC contained in AFSCP/AFLCP 173-5, DARCOM-P 715-5, NAVMAT P-5240, Cost/Schedule Control Systems Criteria Joint Implementation Guide;

(3) Identify the major subcontractors, or major subcontracted effort in the event major subcontractors have not been selected, planned for application of the criteria;

(4) Describe the proposed procedure for administration of the criteria as applied to subcontractors.

(b) If the Contractor is utilizing Cost/Schedule Control Systems which have been previously accepted, or is operating such systems under a current Memorandum of Understanding, evidence of such may be submitted in lieu of the comprehensive plan mentioned above. In such event, the Contracting Officer will determine the extent to which such systems shall be reviewed to assure continued compliance with the criteria.

(c) The Offeror shall provide information and assistance as requested by the Contracting Officer for evaluation of compliance with the cited criteria.

(d) The Offeror's plan for Cost/Schedule Control Systems will be evaluated prior to contract award. Upon acceptance of the Cost/Schedule Control Systems, a description of the accepted systems will be referenced in the contract.

(e) Subcontractor selection for application of the C/SCSC will be by agreement between the prime Contractor and the Government. The prime contractor will contractually require the selected subcontractors to comply with the criteria. However, demonstrations and reviews of these selected subcontractors' management systems may be performed by the procuring authority when requested by either the prime or subcontractor.

(End of provision)

252.234-7001 Cost/schedule control systems.

As prescribed at 234.005-71, insert the following clause:

COST/SCHEDULE CONTROL SYSTEMS (AUG 1985)

(a) The Contractor shall establish, maintain and use in the performance of this contract Cost/Schedule Control Systems meeting the attached criteria (DoDI 7000.2, Performance Measurement for Selected Acqui-
sitions). Prior to acceptance by the Con-
tracting Officer and within ninety (90) (or
as otherwise agreed to by the parties) calen-
dar days after contract award, the Contrac-
tor shall be prepared to demonstrate the op-
eration of the Contractor's systems to the
Government to verify that the proposed sys-
tems meet the established criteria set forth
above. As a part of the demonstration,
review and acceptance procedure, the Con-
tractor shall furnish the Government a de-
scription of the Cost/Schedule Control Sys-
tems applicable to this contract in such
form and detail as indicated by the AFSC
AFLCP 173-5, DARCOM-P 715-5, NAVMAT
P-5240, Cost Schedule Control Systems Cri
teria Joint Implementation Guide, herein
after referred to as the guide, or required by
the Contracting Officer. The Contracto
agrees to provide access to all pertinen
records, data and plans as requested by rep
resentatives of the Government for the con
duct of the review.

(b) The description of the managemen
systems accepted by the Contracting Offi
cer, identified by the title and date, shall b
referenced in the contract. Such system
shall be maintained and used by the Con
tractor in the performance of this contrac

(c) Contractor changes to the accepte
systems shall be submitted to the Contrac
ing Officer for review and approval. Th
Contracting Officer shall advise the Con
tractor of the acceptability of such change
within sixty (60) days after receipt from th
Contractor. When systems existing at tim
of contract award do not comply with th
criteria, adjustments necessary to assur
compliance will be effected at no change
contract price or fee.

(d) The Contractor agrees to provid
access to all pertinent records and data r
quested by the Contracting Officer or dul
authorized representative for the purpose
permitting Government surveillance
ensure continuing application of the accep
ed systems to this contract. Deviations fro
accepted systems discovered during contra
performance shall be corrected as direct
by the Contracting Officer.

(e) The Contractor shall require that eac
selected subcontractor, as mutually agre
to between the Government and the Co
tractor and as set forth in the schedule
this contract, shall meet the Cost/Schedu
Control Systems criteria as set forth in th
guide and shall incorporate in all such su
contracts adequate provisions for demo
stration, review, acceptance and surveillan
of subcontractors' systems, to be carried o
by the Government when requested
either the prime or subcontractor.

(f) If the Contractor or subcontractor
utilizing Cost/Schedule Control Syste
which have been previously accepted, or
operating such systems under a curre

Memorandum of Understanding, the Contracting Officer may waive all or part of the provisions hereof concerning demonstration and review.

(End of clause)

252.235-7000 Indemnification under 10 U.S.C. 2354—fixed price.

As prescribed at 235.071(a), insert the following clause:

INDEMNIFICATION UNDER 10 U.S.C 2354—FIXED PRICE (APR 1974)

(a) Pursuant to the authority of 10 U.S.C. 2354, notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury (including sickness or disease), or loss of, (damage to, or loss of use of property;

(2) Loss of or damage to property of the Contractor, and loss of use of such property, but excluding loss of profit; and

(3) Loss of, damage to, or loss of use of property of the Government;

to the extent that such a claim, loss or damage (i) arises out of the direct performance of this contract; (ii) is not compensated by insurance or otherwise; and (iii) results from a risk defined in this contract to be unusually hazardous. Any such claim, loss, or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b) The Government shall not be liable for any such claim, loss or damage that results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of the Contractor's managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement (except for subcontracts which are covered by paragraph (d) below) unless such assumption of liability has been specifically approved by the Contracting Officer; (or in contracts with the Department of the Navy, *The Department*.)

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or representative designated for such purpose. Such payments shall be made from funds as stated in 10 U.S.C. 2354. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of papers and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of lower tier subcontractors upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall entitle the Contractor or the Government, or both, to direct, participate in, and supervise the settlement or defense of relevant actions and claims. The Government shall indemnify the Contractor with respect to the Contractor's obligation to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to persons to whom the subcontractors may be liable.

(e) If insurance coverage maintained by the Contractor on the date of the execution of this contract is reduced, the liability of the Government under this clause shall not, by reason of such reduction, be increased to cover risks theretofore insured, unless the Contracting Officer consents thereto in consideration of an equitable adjustment to the Government, if appropriate, of the price in a fixed-price contract, or the fee in a cost-reimbursement type contract, in such amount as the parties may agree.

(f) The Contractor shall (i) promptly notify the Contracting Officer of any occurrence, action or claim the Contractor learns of that reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage in the manner and form required by the Government, and (iii) immediately furnish to the Government copies of all pertinent papers received by the Contractor. The Government may direct, participate in, and supervise the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required, in regard to such settlement or defense.

(g) The Contractor shall purchase and maintain, to the extent available, such insurance against unusually hazardous risks as the Contracting Officer (or in contracts with Department of the Navy, *The Department*) may from time to time require or approve. All such insurance shall be in such form, in the amounts, for the periods of time, at such rates, and with such insurers, as the Contracting Officer (or in contracts with Department of the Navy, *The Department*) may from time to time require or approve. The obligations of the Government under this clause shall not apply to claims, loss or damage to the extent that insurance is available and is either required or approved pursuant to this paragraph. The Contractor shall be reimbursed the cost of any such insurance in excess of that maintained by the Contractor as of the date of this contract, to the extent the cost thereof is properly allocable to this contract and is not included in the contract price.

(End of clause)

252.235-7001 Indemnification under 10 U.S.C. 2354—cost reimbursement.

As prescribed at 235.071(b), insert the following clause.

INDEMNIFICATION UNDER 10 U.S.C. 2354—COST REIMBURSEMEMT (APR 1974)

(a) Pursuant to the authority of 10 U.S.C. 2354, notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury (including sickness or disease), or loss of, damage to, or loss of use of property;

(2) Loss of or damage to property of the Contractor, and loss of use of such property, but excluding loss of profit; and

(3) Loss of, damage to, or loss of use of property of the Government;

to the extent that such a claim, loss or damage (i) arises out of the direct performance of this contract; (ii) is not compensated by insurance or otherwise; and (iii) results from a risk defined in this contract to be unusually hazardous. Any such claim, loss, or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b) The Government shall not be liable for any such claim, loss or damage that results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of the Contractor's managers, superintendents, or other equivalent representatives who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement (except for subcontracts which are covered by paragraph (d) below) unless such assumption of liability has been specifically approved by the Contracting Officer, (or in contracts with the Department of the Navy, *The Department*).

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. Such payments shall be made from funds as stated in 10 U.S.C. 2354. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions as those in this clause whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of papers, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of lower tier subcontractors upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall entitle the Contractor or the Government, or both, to direct, participate in, and supervise the settlement or defense of relevant actions and claims. The Government shall indemnify the Contractor with respect to the Contractor's obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to persons to whom the subcontractors may be liable.

(e) If insurance coverage maintained by the Contractor on the date of the execution of this contract is reduced, the liability of the Government under this clause shall not by reason of such reduction, be increased to cover risks therefore insured, unless the Contracting Officer consents thereto in consideration of an equitable adjustment to the Government, if appropriate, of the price in a fixed-price contract, or the fee in a cost-reimbursement type contract, in such amount as the parties may agree.

(f) In addition to the Contractor's responsibilities under the "Insurance—Liability to Third Persons" clause of this contract, which are hereby made applicable to claims under this clause, the Contractor shall (1) promptly notify the Contracting Officer of any occurrence the Contractor learns of that reasonably may be expected to involve indemnification under this clause, (2) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (3) to the extent required by the Government, permit and authorize the Government to direct, participate in, and supervise the settlement or defense of any such claim or action. The cost of insurance (including self insurance), covering a risk defined in this contract as unusually hazardous, shall not be reimbursed either as a direct or indirect cost except to the extent that such insurance has been required or approved under the "Insurance—Liability to Third Persons" clause hereof.

(g) The "Limitation of Cost" clause of this contract does not apply to the Government's obligations under this clause. Such obligations shall be excepted from the release required under the "Allowable Cost, Fee, and Payment" clause of this contract.

(h) For purposes of this clause, a claim, loss or damage shall be considered to have arisen out of the direct performance of this contract if the cause for such claim, loss or damage occurred during the period of performance of this contract or as a result of the performance of this contract.

(End of clause)

252.235-7002 [Reserved]

252.235-7003 Care of laboratory animals.

As prescribed at 235.071(d), insert the following clause:

CARE OF LABORATORY ANIMALS (APR 1974)

(a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with section 6, Pub. L. 89-544, Laboratory Animal Welfare Act, 24 August 1966 as amended by Pub. L. 91-579, Animal Welfare Act of 1970, 24 December 1970. The Contractor shall furnish evidence of such registration to the Contracting Officer.

(b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a) above.

(c) In the care of any live animals used or intended for use in the performance of this contract, the Contractor shall adhere to the principles enunciated in the *Guide for Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences—National Research Council, and in the United States Department of Agriculture's regulations and standards issued under the Public laws enumerated in (a) above. In case of conflict between standards, the higher standard shall be used. Contractor reports on portions of the contract in which animals were used shall contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the *Guide for Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources, NAS-NRC, and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of 24 August 1966, as amended (Pub. L. 89-544 and P.L. 91-579). NOTE: The Contractor may request registration of the Contractor's facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which the Contractor's research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, Maryland 20782.

(End of clause)

252.235-7004 Frequency authorization.

As prescribed at 235.071(e), insert the following clause:

FREQUENCY AUTHORIZATION (OCT 1966)

(a) Authorization of radio frequencies required in support of this contract shall be obtained through the Contracting Officer by the Contractor or subcontractor in need thereof. Frequency management procedures prescribed in the Schedule of this contract shall be followed in obtaining radio frequency authorization.

(b) For any experimental, developmental or operational equipment for which the appropriate frequency allocation has not been made, the Contractor or subcontractor shall provide the technical operating characteristics of the proposed electromagnetic radiating device to the Contracting Officer during the initial planning, experimental, or developmental phases of contractual performance. DD Form 1494, "Application for Frequency Allocation", shall be used for this purpose and shall be prepared in accordance with instructions contained on the form.

(c) This clause including this paragraph (c), shall be included in all subcontracts which call for developing, producing, testing, or operating a device for which a radio frequency authorization is required.

(End of clause)

252.235-7005 Short form research contract clauses.

As prescribed in 235.7008(b), insert the following clauses in SFRC awards to educational institutions and nonprofit organizations. The clauses set forth below are incorporated with the same force and effect as if set forth in full. Clauses with a single asterisk (*) are applicable to educational institutions only. Clauses with a double asterisk (**) are applicable to nonprofit organizations only. For awards where the amount is less than $25,000, the inapplicable clauses shall be identified in the contract.

(a) Definitions, FAR 52.202-1.

(b) Officials Not to Benefit, FAR 52.203-1.

(c) Gratuities, FAR 52.203-3.

(d) Covenant Against Contingent Fees, FAR 52.203-5.

(e) Anti-Kickback Procedures, FAR 52.203-7.

(f) Statutory Compensation Prohibitions and Reporting Requirements Related to Certain Former Department of Defense (DoD) Employees, DFARS 252.203-7002. (Applicable to all contracts of $100,000 or more, awarded to major defense contractors, i.e., those awarded defense contracts aggregating $10 million or more during the previous Government fiscal year. The clause does not apply to state or local governments.)

(g) Overseas Distribution of Defense Subcontracts (See 252.204-7005 of this Supplement) (applicable only when contract action exceeds $500,000 or when any modification increases contract amount to more than $500,000).

(h) Examination of Records by Comptroller General, FAR 52.215-1.

(i) Audit—Negotiation, FAR 52.215-2.

(j) Price Reduction for Defective Cost or Pricing Data, FAR 52.215-22 (applicable to cost-plus-fixed-fee contract actions exceeding $100,000; applicable to subcontracts under cost-no-fee prime contracts if contract action exceeds $100,000).

(k) Subcontractor Cost or Pricing Data, FAR 52.215-24 (applicable only if FAR 52.215-22 applies).

(l) Intregrity of Unit Prices, FAR 52
26 (applicable when contract action ex
$25,000).

(m) ** Facilities Capital Cost of M
FAR 52.215-30 (applicable as set for
the clause).

(n) ** Waiver of Facilities Capital C
Money, FAR 52.215-31 (applicable a
forth in the clause).

(o) Order of Precedence, FAR 52.215-

(p) Aggregate Pricing Adjustment
252.215-7000 of this Supplement) (ap
ble only if contract action exceeds $10
and FAR 52.215-22 applies).

(q) Allowable Cost and Payment,
52.216-7.

(r) ** Fixed Fee, FAR 52.216-8 (appli
only in cost-plus-fixed-fee contracts).

(s) Cost Contract—No Fee, FAR 52.2
and Alternate I. As authorized by Alte
I, paragraph (b) of the basic clause is
ed.

(t) Cost-Sharing Contract—No Fee,
52.216-12 and Alternate I. As authoriz
Alternate I, paragraph (b) of the
clause is deleted.

(u) * Predetermined Indirect Cost
FAR 52.216-15 (applicable only whe
contractor has an executed negot
agreement with the cognizant contra
ministration office).

(v) Utilization of Small Business Co
and Small Disadvantaged Business
cerns, FAR 52.219-8.

(w) Utilization of Women-Owned
Businesses, FAR 52.219-13.

(x) Utilization of Labor Surplus Are
cerns, FAR 52.220-3.

(y) Payment for Overtime Prem
FAR 52.222-2. (Note: The word "zero"
serted in the blank space indicated by
terisk. Clause applicable only when co
action exceeds $100,000.)

(z) Convict Labor, FAR 52.222-3.

(aa) Equal Opportunity, FAR 52.2
Alternate I shall be added as a special
sion when applicable per Alternate
structions.

(bb) Affirmative Action for Specia
abled and Vietnam Era Veterans,
52.222-35.

(cc) Affirmative Action for Handic
Workers, FAR 52.222-36.

(dd) Clean Air and Water, FAR 52
(applicable only if contract action e
the dollar amount set forth in the pre
to the clause).

(ee) Authorization and Consent,
52.227-1, and Alternate I.

(ff) Notice and Assistance Reg
Patent and Copyright Infringement,
52.227-2.

(gg) Patent Rights—Retention b
Contractor (Short Form), FAR 52.227-

(hh) Rights in Technical Data and Computer Software and Alternate I (See 252.227-7013 of this Supplement).

(ii) Restrictive Markings on Technical Data (See 252.227-7018 of this Supplement).

(jj) Identification of Technical Data (See 252.227-7029 of this Supplement).

(kk) ** Technical Data—Withholding of Payment (See 252.227-7030 of this Supplement).

(ll) Patents—Subcontracts (See 252.227-7034 of this Supplement).

(mm) Insurance—Liability to Third Persons, FAR 52.228-7. Alternates I or II apply under the circumstances set forth herein.

(nn) ** Cost Accounting Standards, FAR 52.230-3 (applicable only if contract action exceeds $100,000 and the contract is not exempt per FAR 30.301).

(oo) ** Administration of Cost Accounting Standards, FAR 52.230-4 (applicable only if contract action exceeds $100,000 and the contract is not exempt per FAR 30.301).

(pp) ** Disclosure and Consistency of Cost Accounting Practices, FAR 52.230-5 (applicable only if contract action exceeds $100,000 and the contract is not exempt per FAR 30.301).

(qq) Supplemental Cost Principles (See 252.231-7000 of this Supplement) (applicable to nonprofit institutions only when allowability of costs is determined in accordance with FAR Subpart 31.2).

(rr) Penalties for Unallowable Costs, DFARS 252.231-7001 (applicable when contract action exceeds $100,000).

(ss) ** Limitation on Withholding of Payments, FAR 52.232-9.

(tt) Limitation of Cost, FAR 52.232-20 (applicable only when contract action is fully funded).

(uu) Limitation of Funds, FAR 52.232-22 (applicable only when contract action is incrementally funded).

(vv) Assignment of Claims, FAR 52.232-23.

(ww) Disputes, FAR 52.233-1.

(xx) Protest After Award and Alternate I, FAR 52.233-3.

(yy) Certification of Requests for Adjustment or Relief Exceeding $100,000 (See 252.233-7000 of this Supplement) (applicable only if contract action exceeds $100,000).

(zz) Care of Laboratory Animals, DFARS 252.235-7003.

(aaa) Notice of Intent to Disallow Costs, FAR 52.242-1.

(bbb) Certification of Indirect Cost, DFARS 252.242-7003.

(ccc) **Changes—Cost-Reimbursement, FAR 52.243-2 and Alternate V.

(ddd) Subcontracts Under Cost-Reimbursement and Letter Contracts, FAR 52.244-2.

(eee) Competition in Subcontracting, FAR 52.244-5.

(fff) Government Property (Cost-Reimbursement, Time and Material, or Labor-Hour Contracts), FAR 52.245-5 and Alternate I.

(ggg) Preference for U.S.-Flag Air Carriers, FAR 52.247-63.

(hhh) Termination for Convenience of the Government (Educational and Other Nonprofit Institutions), FAR 52.249-5 (applicable as set forth in clause preamble).

(iii) **Termination (Cost-Reimbursement), FAR 52.249.6 (applicable only to cost-plus-fixed-fee contracts).

(jjj) **Excusable Delays, FAR 52.249-14 (applicable only to contracts to which FAR clause 52.249-6 "Termination (Cost-Reimbursement)" is applicable).

(kkk) Government Supply Sources, FAR 52.251-1.

(lll) Ordering From Government Supply Sources (See 252.251-7000 of this Supplement.

(mmm) Work to be Performed.

WORK TO BE PERFORMED (FEB 1989)

The Contractor shall perform research as specified in the proposal and identified in the Short Form Research Contract (SFRC) document.

(End of clause)

(nnn) Acknowledgment of Sponsorship.

ACKNOWLEDGEMENT OF SPONSORSHIP (APR 1984)

(a) The Contractor agrees that in the release of information relating to an SFRC, such release shall include a statement to the effect that the project or effort depicted was or is sponsored by the agency set forth in the SFRC, and that the content of the information does not necessarily reflect the position or the policy of the Government, and no official endorsement should be inferred.

(b) For the purpose of this clause, information includes news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association proceedings, symposia, etc.

(c) Nothing in the foregoing shall affect compliance with the requirements of the clause entitled "Security Requirements" (FAR 52.204-2), if such clause is a part of the contract.

(End of clause)

(ooo) Publications.

PUBLICATIONS (AUG 1983)

Publication of results of the research project in appropriate professional journals is encouraged as an important method of recording and reporting scientific information. One copy of each paper planned for publication will be submitted to the Scientific Program Officer simultaneously with its submission for publication. Following publication, copies of published papers shall be submitted to the Scientific Program Officer, or to the other addressees in quantities as may be directed by the Contracting Officer.

(End of clause)

(ppp) Reporting Requirements.

REPORTING REQUIREMENTS (APR 1984)

(a) Reporting shall be as specified in the SFRC. Unless specified otherwise, reporting requirements will include annual letter reports for multiyear research programs and a final technical report due within sixty (60) days after the expiration date of the SFRC.

(b) The Contracting Officer, after coordination with the Scientific Program Officer, will specify the form and content of the required reports. These requirements may be furnished the Contractor as may be mutually agreed.

(c) Technical data and computer software, as defined in 252.227-7013 shall be delivered to the Scientific Program Officer. Unless otherwise specified in the SFRC, these items shall be delivered as part of the final technical report.

(End of clause)

(qqq) Option to Extend the Term of the SFRC.

OPTION TO EXTEND THE TERM OF THE SFRC (APR 1984)

(a) If the Contractor's proposal covers an additional period(s) which could be treated as an optional period(s), such additional period(s) of research may be added to the contract, at the option of the Government, by the Contracting Officer's giving written notice exercising such option(s) at any time during the performance period specified in the contract or any extensions thereof.

(b) If the Government exercises an option, the Contractor agrees to the following:

(i) To comply with the applicable clauses listed in the SFRC; and

(ii) To comply with the policies and regulations for the SFRC as set forth in Subpart 225.70.

(End of clause)

(rrr) Contractor-Acquired Property.

CONTRACTOR-ACQUIRED PROPERTY (FEB 1989)

(a) As used in this clause, "property" is as defined in subparagraph (b)(1) of the clause of this contract entitled "Title to Contractor-Acquired Property" which has been specifically identified in the Contractor's proposal which is the basis for award or mod cation.

(b) The identification and description the Contractor's proposal of property to Contractor-acquired may be accepted by Contracting Officer as advance notificat required by subparagraphs (a) and (b) the clause of this contract entitled "Subc tracts Under Cost Reimbursement Letter Contracts" (FAR 52.244-2).

(c) Award of this contract, and modifi tions thereto, shall constitute the writ consent of the Contracting Officer, requi by subparagraph (c) of FAR 52.244-2, to quire property identified in the Contracto proposal, except for those items specific identified in the contract as required Block 27a of the DD Form 2222.

(d) The decision to approve subcontra for acquisition of items listed in Block of the contract will be made subsequent award of the contract or modification p suant to FAR 52.244-2.

(End of clause)

(sss) Title to Contractor-Acquired Prop ty.

TITLE TO CONTRACTOR-ACQUIRE PROPERTY (FEB 1989)

(a) This paragraph implements subpa graph (c)(4) of the clause of this contr entitled "Government Property (Cost-Re bursement, Time and Material, or La Hour Contracts)" and FAR 35.014.

(b) For purposes of this paragraph, "pr erty" is all nonexpendable tangible perso property (except material):

(1) As described in FAR 45.101, includ ADPE defined in FAR 31.001 and facilit defined in FAR 45.301; and

(2) Which is acquired with funds availa for the conduct of research; and

(3) For which the Contracting Officer authorized acquisition by the Contractor at the time of award of the contract modification as provided by the clause this contract entitled "Contractor-Acqui Property", or (ii) subsequent to award p suant to FAR 52.244-2.

(c) Title to all property having an acqu tion cost of $1,000 or more which is spec cally identified in the Contractor's propo shall vest in the Contractor without furt obligation to the Government, unless determination regarding vesting of title deferred until after acquisition. Prope for which the determination regarding ti is deferred shall be identified in Block 2 of DD Form 2222, and title to such prope shall vest in accordance with the provisio of (d) below.

(d) Title to all property having an acqu tion cost of $1,000 or more which was specifically identified in the Contracto proposal, or for which the determination regarding title is deferred pursuant to (c) above, shall vest as follows:

(1) In the Government pursuant to FAR 35.014; or

(2) In the Contractor; or

(3) In the Contractor subject to the right of the Government to direct transfer of the title back to the Government or third parties. This right may be exercised at anytime up to and including the twelfth (12th) month after completion or termination of the contract. The Government may at anytime remove an item of property from this category and transfer title to the Contractor without right of the Government to direct transfer of the title back to the Government or to third parties.

(e) Transfer of title back to the Government or third parties shall not be the basis for any claim by the institution. The provisions of FAR 52.245-5 and Alternate I apply to any changes in property.

(f) Until title to property acquired with funds made available under this contract has been vested in the Contractor, without right of the Government to direct transfer of the title back to the Government or third parties, it shall be considered Government Property and subject to the provisions of FAR 52.245-5 and Alternate I.

(g) The Contractor shall furnish the Contracting Officer a list of all property having an acquisition cost of $1,000 or more acquired under this contract, to which title has not been vested in the Contractor, within forty-five (45) days following the end of the calendar year or the Contractor's fiscal year during which such property was acquired.

(End of clause)

(ttt) Research Responsibility.

RESEARCH RESPONSIBILITY (FEB 1989)

(a) The Contractor shall bear responsibility for the conduct of the research specified in the Contractor's proposal identified in the SFRC. The Contractor will exercise judgment in attaining the stated research objectives within the limits of the terms and conditions of the SFRC; *Provided*, however, that the Contractor will obtain the Contracting Officer's approval to change the Statement of Work. Consistent with the foregoing, the Contractor shall conduct the work as set forth in his proposal and accepted by the contract award.

(b) When the decision to enter into the SFRC is based upon the principal investigator's knowledge of the field of study, and the principal investigator's capabilities to manage the research project in an effective and productive manner, the principal investigator identified in the proposal shall be continuously responsible for the conduct of the research project, and shall be closely involved with the research efforts.

(c) The Contractor shall advise the Contracting Officer if the principal investigator(s) identified in the SFRC plans to devote substantially less effort to the work than set forth in the proposal.

(d) The Contractor shall obtain the Contracting Officer's approval prior to changing the principal investigator(s) identified in the proposal.

(End of clause)

(uuu) Restriction on Printing.

RESTRICTION ON PRINTING (AUG 1983)

The Government authorizes the reproduction of reports, data, or other written materials, if required; *Provided*, the material produced does not exceed 5,000 production units of any page, and items consisting of multiple pages do not exceed 25,000 production units in the aggregate. The Contractor shall obtain the express prior written authorization of the Contracting Officer to reproduce material in excess of the quantities cited above.

(End of clause)

(vvv) Contract Items Requiring Experimental, Developmental or Research Work.

CONTRACT ITEMS REQUIRING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK (AUG 1983)

For purposes of defining the nature of the work and the scope of rights in data granted to the Government pursuant to the Rights in Technical Data and Computer Software clause of this contract, it is understood and agreed that the work to be performed under this contract requires the performance of experimental, developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

(End of clause)

(www) Advance Payments.

ADVANCE PAYMENTS (AUG 1983)

Advance payments shall be made under this contract pursuant to the advance payment pool agreement between the Contractor and one or more Military Departments applicable to this contract, in effect as of the date of this contract. If such an agreement is not in effect as of the date of award of this contract, the Contractor will be paid in accordance with the clause of this contract entitled "Allowable Cost and Payment".

(End of clause)

(xxx) Inspection and Acceptance.

INSPECTION AND ACCEPTANCE (FEB 1989)

Inspection and acceptance of the final delivery under this contract will be accomplished by the Scientific Program Officer designated in Block 11 on the DD Form 2222 of this contract, who shall have at least thirty (30) days after contractual delivery for acceptance.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 54 FR 11725, 11726, Mar. 22, 1989]

252.236-7000 Composition of contractor.

As prescribed at 236.571-1, insert the following clause:

COMPOSITION OF CONTRACTOR (JAN 1965)

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

(End of clause)

252.236-7001 Modification proposals—price breakdown.

As prescribed at 236.571-2, insert the following clause:

MODIFICATION PROPOSALS—PRICE BREAKDOWN (APR 1968)

The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefor shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

(End of clause)

252.236-7002 Contract drawings, maps
specifications.

As prescribed at 236.571-3, insert
following clause:

CONTRACT DRAWINGS, MAPS AN
SPECIFICATIONS (SEP 1987)

(a) —— sets (5 unless otherwise specif
of large-scale (half-size optional) cont
drawings and specifications will be
nished the Contractor without ch
except applicable publications incorpor
into the technical provisions by refere
Additional sets will be furnished on req
at the cost of reproduction. One set of
producibles will be furnished the Contra
on a one-time basis in lieu of the above
tract drawings at the option of the
tracting Officer. The work shall confor
the specifications and the following
tract drawings identified on the follow
index of drawings.

Title——— File—— and —— Dra
No.——

(b) Omissions from the drawings or s
fications or the misdescription of detai
work which are manifestly necessary
carry out the intent of the drawings
specifications, or which are customarily
formed, shall not relieve the Contra
from performing such omitted or mi
scribed details of the work but they shal
performed as if fully and correctly set f
and described in the drawings and speci
tions.

(c) The Contractor shall check all dr
ings furnished him immediately upon t
receipt and shall promptly notify the
tracting Officer of any discrepancies.
ures marked on drawings shall in genera
followed in preference to scale meas
ments. Large scale drawings shall in gen
govern small scale drawings. The Contra
shall compare all drawings and verify
figures before laying out the work and
be responsible for any errors which m
have been avoided thereby.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended
53 FR 38176, Sept. 29, 1988]

252.236-7003 [Reserved]

252.236-7004 Contract prices—bidd
schedules.

As prescribed at 236.572-1, insert
following clause:

CONTRACT PRICES—BIDDING SCHEDULES (APR 1968)

Payment for the various items listed in the Bidding Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, and materials, and for performing all operations required to complete the work in conformity with the drawings and specifications. All costs for work not specifically mentioned in the Bidding Schedule shall be included in the contract prices for the items listed.

(End of clause)

252.236-7005 Salvage materials and equipment.

As prescribed at 236.572-2, insert the following clause:

SALVAGE MATERIALS AND EQUIPMENT (JAN 1965)

The Contractor shall maintain adequate property control records for all materials or equipment specified to be salvaged. These records may be in accordance with the Contractor's system of property control, if approved by the property administrator. The Contractor shall be responsible for the adequate storage and protection of all salvaged materials and equipment and shall replace, at no cost to the Government, all salvage materials and equipment which are broken or damaged during salvage operations as the result of his negligence, or while in his care.

(End of clause)

252.236-7006 Misplaced material.

As prescribed at 236.572-3, insert the following clause:

MISPLACED MATERIAL (JAN 1965)

Should the Contractor, during the progress of the work, lose, dump, throw overboard, sink, or misplace any material, plant, machinery, or appliance, which in the opinion of the Contracting Officer may be dangerous to or obstruct navigation, the Contractor shall recover and remove the same with the utmost dispatch. The Contractor shall give immediate notice, with description and location of such obstructions, to the Contracting Officer or inspector, and when required shall mark or buoy such obstructions until the same are removed. Should he refuse, neglect, or delay compliance with the above requirements, such obstructions may be removed by the Contracting Officer, and the cost of such removal may be deducted from any money due or to become due the Contractor, or may be recovered under his bond. The liability of the Contractor for the removal of a vessel wrecked or sunk without fault or negligence shall be limited to that provided in sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 410 et seq.).

(End of clause)

252.236-7007 [Reserved]

252.236-7008 Superintendence of subcontractors.

As prescribed at 236.572-5, insert the following clause:

SUPERINTENDENCE OF SUBCONTRACTORS (JAN 1965)

(a) The Contractor shall be required to furnish the following, in addition to the superintendence required by FAR clause at 52.236-6, entitled "SUPERINTENDENCE BY THE CONTRACTOR":

(i) If more than 50% and less than 70% of the value of the contract work is subcontracted, one superintendent shall be provided at the site and on the Contractor's payroll to be responsible for coordinating, directing, inspecting and expediting the subcontract work.

(ii) If 70% or more of the value of the work is subcontracted, the Contractor shall be required to furnish two such superintendents to be responsible for coordinating, directing, inspecting and expediting the subcontract work.

(b) If the Contracting Officer, at any time after 50% of the subcontracted work has been completed, finds that satisfactory progress is being made, he may waive all or part of the above requirements for additional superintendence subject to the right of the Contracting Officer to reinstate such requirements if at any time during the progress of the remaining work he finds that satisfactory progress is not being made.

(End of clause)

252.236-7009 Payment for mobilization and preparatory work.

As prescribed at 236.572.6, insert one of the following clauses:

(a) PAYMENT FOR MOBILIZATION AND PREPARATORY WORK, PAYMENT ITEM NO. _____ (MAR 1979)

(a) Payments will be made under this contract on the actual expenditures made by the Contractor for mobilization and preparatory work under payment Item No. _____ as follows: The Contractor may submit to the Contracting Officer certified accounts of the actual payments made by him for construction plant exceeding $10,000 in value per unit, as appraised by the Contracting Officer at the site of the work, acquired for the execution of the work; for the transportation of all plant and equipment to the site; for material purchased for the prosecution of the contract, but not to be incorporated in the work; for construction of camps, access roads or railroads, trailer courts, mess halls, dormitories or living quarters, field headquarters facilities and construction yards, and for personal services and hire of plant on work preparatory to commencing actual work on the construction items for which payment is provided under the terms of the contract. Accounts so submitted must be accompanied by certificate of the Contractor, supported by receipted bills or certified copies of payrolls and freight bills, showing that he has acquired said construction plant and material free from all encumbrances and agreement that it will not be removed from the site and that structures and facilities prepared or erected for the prosecution of the contract work will be maintained and not dismantled prior to the completion and acceptance of the entire work without the written permission of the Contracting Officer. If the Contracting Officer finds that said construction plant, material, equipment and the mobilization and preparatory work performed are suitable and necessary to the efficient prosecution of the contract and that the said preparatory work has been done with proper economy and efficiency, payment, less the prescribed retained percentage, will be made therefor to the Contractor. Payment for construction plant, material and structures and facilities prepared or erected for prosecution of the contract work shall not exceed the cost thereof to the Contractor less the estimated value upon the completion of the contract as determined by the Contracting Officer. In no event shall such payment exceed 100% of the cost to the Contractor of any such items which have no appreciable salvage value and 75% of the cost to the Contractor of such items which have an appreciable salvage value. The findings of the Contracting Officer as to the suitability and value of the construction plant, equipment, materials, structures or facilities shall not be subject to appeal.

(b) Payments for mobilization and preparatory work will be made in accordance with (a) above, and such payments will be deducted from the contract price for Item No. _____ "Mobilization and Preparatory Work" until the total amount thus charged to this item reduces this item to zero, after which no further payments will be made under this item. If the total of such payments made does not reduce this item to zero, the balance will be paid to the Contractor in the final payment under the contract. The retained percentage will be paid in accordance with the clause of this contract entitled "Payments to Contractor".

(End of clause)

(b) MOBILIZATION AND DEMOBILIZATION, PAYMENT ITEM NO. _____ (DEC 1985)

(a) All costs connected with the mobilization and demobilization of all of the Contractor's plant and equipment will be paid for at the contract lump sum price for this item. _____ percent (_____%) of the lump sum price will be paid to the Contractor upon completion of his mobilization at the work site. The remaining _____ percent (_____%) will be paid to the Contractor upon completion of demobilization.

(b) In the event the Contracting Officer considers that the amount in this item (_____%), which represents mobilization and (_____%) which represents demobilization, does not bear a reasonable relation to the cost of the work in this contract, the Contracting Officer may require the Contractor to produce cost data to justify this portion of the bid. Failure to justify such price to the satisfaction of the Contracting Officer will result in payment of actual mobilization costs, as determined by the Contracting Officer at the completion of mobilization, and actual demobilization costs, as determined by the Contracting Officer at the completion of demobilization, and payment of the remainder of this item in the final payment under this contract. The determination of the Contracting Officer is not subject to appeal.

(End of clause)

NOTE.—The percentage of the lump sum price for mobilization and demobilization in paragraph (a) of the above clause at 252.236-7009(b), attributed to mobilization should generally be 60% and the remaining 40% considered to be the cost of demobilization. These percentages may be varied to reflect the situation contemplated under the particular contract, but in no event should mobilization exceed 80% of the payment item.

252.236-7011 Airfield safety precautions.

As prescribed at 236.572-8, insert the following clause:

AIRFIELD SAFETY PRECAUTIONS (APR 1968)

(a) The operation of all ground equipment (mobile or stationary), the placement of all materials, and the performance of all work, upon and in the vicinity of all airfields, shall be done in accordance with this clause. The requirements of this clause are in addition to any other safety requirements of this contract.

(b) For purposes of this clause the following definitions shall apply.

(1) "Landing Areas" means the following:

(i) the primary surfaces which are comprised of the surface of the runways, the runway shoulders, and the lateral safety zones (the length of each primary surface is the same as the runway length; the width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline)*); (see footnote at end of clause)

(ii) the "clear zone" beyond the ends of each runway, i.e., the extension of the "primary surface" for a distance of 1,000 feet beyond each end of each runway;

(iii) all taxiways plus the lateral clearance zones along each side for the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiway, i.e., a 75-foot-wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and

(iv) all aircraft parking aprons plus the area 125 feet in width extending beyond each edge all around the aprons.

(2) "Safety precaution areas" means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance surface or the transitional surface.

(A) The "approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended. The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway, and continuous upward at a slope of 50:1 (one foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation; at that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there. The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone; thence it flares uniformly, reaching the maximum width of 16,000 feet at the end.

(B) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(C) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes. The inclined plane in each case begins at the edge of the surface. The slope of the inclined plane is 7:1 (one foot vertically for each 7 feet horizontally), and it continues to the point of intersection with the inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation) or the outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(D) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone and approach-departure clearance zone.)

(c) The Contractor shall report to the Contracting Officer before initiating any work and shall notify him of proposed changes of locations and operations.

(d) Neither equipment nor personnel shall use any runway for purposes other than aircraft operation without permission of the Contracting Officer unless the runway is closed by order of the Contracting Officer and marked as provided in (e)(2) below.

(e)(1) The Contractor shall place nothing upon the landing areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, the Contractor shall outline those landing areas hazardous to aircraft, with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) Before entering any landing area at an airfield where flying is controlled, additional permission must be obtained every time from the control tower operator, unless the landing area is marked as hazardous to aircraft in accordance with (2) above.

(4) All vehicles which the Contractor operates in landing areas shall be identified by means of a flag on a staff attached to and flying above the vehicle. The flag shall be three feet square and shall consist of a checkered pattern of international orange and white square of one foot on each side (except that the flag may vary up to 10 percent from each of these dimensions).

(5) Unless otherwise authorized by the Contracting Officer, all other equipment and materials in the landing areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(6) Work shall be carried on so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(f)(1) The Contractor shall place nothing upon the safety precaution areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, all equipment and materials in safety precaution areas shall be marked with red flags by day, and with elec-

tric, battery-operated, low-intensity red flasher lights by night.

(3) All objects placed in safety precaution areas, which project above the approach-departure clearance surface or above the transitional surface must be provided at night with a red light or red lantern.

(g) The Contractor shall keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft.

(h) While work is actually being performed on the airfield by the Contractor, the operation of mobile equipment shall be governed by the safety provisions above. At all other times al! mobile equipment shall be removed to locations approved by the Contracting Officer at a distance of at least 750 feet from the runway centerline plus any additional distance necessary to insure compliance with the other provisions of this clause.

(i) Only those trenches may be opened for which material is on hand and ready for placing therein. As soon as practicable after material has been placed and work approved, trenches shall be backfilled and compacted as required by the contract. Meanwhile all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(End of clause)

*At some airfields the width of the primary surfaces is 1,500 feet (750 feet on each side of the runway centerline). In such instances, substitute the proper width in the clause.

252.236-7012 Contractor-prepared Network Analysis System.

As prescribed at 236.572-9, insert the following clause:

CONTRACTOR-PREPARED NETWORK ANALYSIS SYSTEM (APR 1968)

The progress chart to be prepared by the Contractor pursuant to the clause entitled "Schedules for Construction Contracts", shall consist of a network analysis system as described below. In preparing this system the scheduling of construction is the responsibility of the Contractor. The requirement for the system is included to assure adequate planning and execution of the work and to assist the Contracting Officer in appraising the reasonableness of the proposed schedule and evaluating progress of the work.

(a) An example of one of the numerous acceptable types of network analysis systems is shown in Appendix I of Corps of Engineers Regulation ER 1-1-11 entitled "Network Analysis System", single copies of which are available to bona fide bidders on request. Other systems which are designed to serve the same purpose and employ the same basic principles as are illustrated in Appendix I will be accepted subject to the approval of the Contracting Officer.

(b) The system shall consist of diagrams and accompanying mathematical analyses. The diagrams shall show elements of the project in detail and the entire project in summary.

(1) Diagrams shall show the order and interdependence of activities and the sequence in which the work is to be accomplished as planned by the Contractor. The basic concept of a network analysis diagram will be followed to show how the start of a given activity is dependent on the completion of preceding activities and its completion restricts the start of following activities.

(2) Detailed network activities shown on detailed or subnetwork diagram shall include, in addition to construction activities the submittal and approval of samples of materials and shop drawings, the procurement of critical materials and equipment, fabrication of special material and equipment and their installation and testing. All activities of the Government that affect progress and contract required dates for completion of all or parts of the work will be shown. The detail of information shall be such that duration times of activities will range from three (3) to thirty (30) days with not over two percent (2%) of the activities exceeding these limits. The activities which comprise the following separate buildings and features shall be separately identifiable by coding or use of subnetworks or both:

Building or feature..

Minimum number of activities.. ....

The selection and number of activities shall be subject to the Contracting Officer's approval. Detailed networks, when summary networks are also furnished, need not be time scaled but shall be drafted to show a continuous flow from left to right with no arrows from right to left. The following information shall be shown on the diagrams for each activity: preceding and following event numbers, description of the activity, cost, and activity duration.

(3) Summary network. If the project is of such size that the entire network cannot be readily shown on a single sheet, a summary network diagram shall be provided. The summary network diagram shall consist of a minimum of fifty activities and a maximum of one hundred and fifty activities, and shall be based on and supported by detailed diagrams. Related activities shall be grouped on the network. The critical path shall be plotted generally along the center of the sheet with channels with increasing float placed towards the top or bottom. The

summary network shall be time scaled using units of approximately one-half inch equals one week or other suitable scale approved by the Contracting Officer. Weekends and holidays shall be indicated. Where slack exists, the activities shall be shown at the time when they are scheduled to be accomplished.

(4) The mathematical analysis of the network diagram shall include a tabulation of each activity shown on the detailed network diagrams. The following information will be furnished as a minimum for each activity:

(i) Preceding and following event numbers (numbers shall be selected and assigned so as to permit identification of the activities with bid items:

(ii) Activity description;

(iii) Estimated duration of activities (the best estimate available at time of computation);

(iv) Earliest start date (by calendar date);

(v) Earliest finish date (by calendar date);

(vi) Scheduled or actual start date (by calendar date);

(vii) Scheduled or actual finish date (by calendar date);

(viii) Latest start date (by calendar date);

(ix) Latest finish date (by calendar date);

(x) Slack or float;

(xi) Monetary value of activity;

(xii) Responsibility for activity (Prime contractor, subcontractors, suppliers, Government, etc.);

(xiii) Manpower required;

(xiv) Percentage of activity completed;

(xv) Contractor's earnings based on portion of activity completed; and

(xvi) Bid item of which activity is a part.

(5) The program or means used in making the mathematical computation shall be capable of compiling the total value of completed and partially completed activities and subtotals from separate buildings or feature listed in paragraph (b)(2).

(6) In addition to the tabulation of activities, the computation will include the following data:

(i) Identification of activities which are planned to be expedited by use of overtime or double shifts to be worked including Saturdays, Sundays and holidays;

(ii) On-site manpower loading schedule;

(iii) A description of the major items of construction equipment planned for operations of the project. (The description shall include the type, number of units and unit capacities. A schedule showing proposed time equipment will be on the job keyed to activities on which equipment will be used shall be provided); and

(iv) Where portions of the work are to be paid by unit costs, the estimated number of units in an activity which was used in developing the total activity cost.

(7) The analysis shall list the activities in sorts or groups as follows:

(i) By the preceding event number from lowest to highest and then in the order of the following event number;

(ii) By the amount of slack, then in order of preceding event number;

(iii) By responsibility in order of earliest allowable start dates; and

(iv) In order of latest allowable start dates, then in order of preceding event numbers, and then in order of succeeding event numbers.

(c) Submission and approval of the system shall be as follows:

(1) A preliminary network defining the Contractor's planned operations during the first sixty (60) calendar days after notice to proceed will be submitted within ten (10) days. The Contractor's general approach for the balance of the project shall be indicated. Cost of activities expected to be completed or partially completed before submission and approval of the whole schedule should be included.

(2) The complete network analysis consisting of the detailed network mathematical analysis (on-site manpower loading schedule, equipment schedule) and network diagrams shall be submitted within forty (40) calendar days after receipt of notice to proceed.

(d) The Contractor shall participate in a review and evaluation of the proposed network diagrams and analysis by the Contracting Officer. Any revisions necessary as a result of this review shall be resubmitted for approval of the Contracting Officer within ten (10) calendar days after the conference. The approved schedule shall then be the schedule to be used by the Contractor for planning, organizing and directing the work and for reporting progress. If the Contractor thereafter desires to make changes in his method of operating and scheduling he shall notify the Contracting Officer in writing stating the reasons for the change. If the Contracting Officer considers these changes to be of a major nature he may require the Contractor to revise and submit for approval, without additional cost to the Government, all or the affected portion of the detailed diagrams and mathematical analysis and the summary diagram to show the effect on the entire project. A change may be considered of a major nature if the time estimated to be required or actually used for an activity or the logic of sequence of activities is varied from the original plan to a degree that there is a reasonable doubt as to the effect on the contract completion date or dates. Changes which affect activities with adequate slack time shall be considered as minor changes, except that an accumulation of minor changes may be considered a major change when their cumulative effect might affect the contract completion date.

(e) The Contractor shall submit at intervals of fifteen (15) calendar days a report of the actual construction progress by updating the mathematical analyses. Revisions causing changes in the detailed network shall be noted on the summary network, or a revised issue of affected portions of the detailed network furnished. The summary network shall be revised as necessary for the sake of clarity. However, only the initial submission or complete revisions need be time scaled. Subsequent minor revisions need not be time scaled.

(f) The report shall show the activities or portions of activities completed during the reporting period and their total value as basis for the Contractor's periodic request for payment. Payment made pursuant to the General Provision entitled "Payments to Contractor" will be based on the total value of such activities completed or partially completed after verification by the Contracting Officer. The report will state the percentage of the work actually completed and scheduled as of the report date and the progress along the critical path in terms of days ahead or behind the allowable dates. If the project is behind schedule, progress along other paths with negative slack shall also be reported. The Contractor shall also submit a narrative report with the updated analysis which shall include but not be limited to a description of the problem areas, current and anticipated, delaying factors and their impact, and an explanation of corrective actions taken or proposed.

(g) Sheet size of diagrams shall be 30 by 42 inches. Each updated copy shall show a date of the latest revision.

(h) Initial submittal and complete revisions shall be submitted in six (6) copies.

(i) Periodic reports shall be submitted in four (4) copies.

(End of clause)

252.236-7013 Government-prepared network analysis system.

As prescribed at 236.572-10, insert the following clause:

GOVERNMENT-PREPARED NETWORK ANALYSIS SYSTEM (APR 1968)

The progress chart prepared by the Contractor pursuant to the clause entitled "Schedules for Construction Contracts" will include the following:

(a) The Contractor shall submit to the Contracting Officer a chart showing the initial progress schedule covering the first sixty (60) days of his construction operations within _____ days after receipt by him of the Notice to Proceed.

(b) The Contractor shall submit a chart showing the construction progress schedule in accordance with the clause entitled "Schedules for Construction Contracts" for the entire work under this contract within _____ days after receipt of the Notice to Proceed.

(c) In addition to the above information the Contractor will also provide information for the Government to prepare and maintain a surveillance system and verify progress payments using the network analysis system of scheduling as described in Appendix I of the Corps of Engineers Regulation, ER 1-1-11, entitled "Network Analysis System", single copies of which are available to bona fide bidders upon request. In preparing this data the scheduling is the responsibility of the Contractor. The requirement is included to assure adequate planning and execution of the work and to assist the Contracting Officer in appraising the reasonableness of the proposed schedule and evaluating the progress of the work. The data shall include, but not be limited to:

(1) A description of the Contractor's detailed construction plan of the project including the cost or weighted value, the order and interdependence, and the estimated duration of the activities which make up the project. Data shall be in sufficient detail to permit preparation of the network and schedule analysis by the Government.

(2) Revisions and updating of the data on scheduling with reasons for the revisions, as required by the Contracting Officer, shall be furnished by the Contractor in a timely and progressive manner to assist the Government in keeping the network and schedule analysis in a current working status.

(d) Pursuant to the General Provision entitled "Payments to Contractor", progress payments will be made on the basis of weighted value or cost assigned to each activity or group of activities as related to the total contract cost of the activity.

(End of clause)

252.236-7014 Statement of work.

As prescribed at 236.573-1, insert the following clause:

STATEMENT OF WORK (JAN 1965)

The Contractor shall furnish all labor, materials, equipment, and services (except those furnished by the Government) for the construction of (insert a brief description of the project) in accordance with the drawings and specifications or instructions attached hereto as Appendix "A" and made a part hereof, or to be furnished hereafter by the Contracting Officer and subject in every detail to his supervision, direction, and instructions.

(End of clause)

252.236-7015 [Reserved]

252.236-7016 Direct payments.

As prescribed at 236.573-3, insert the following clause:

DIRECT PAYMENTS (JAN 1965)

(a) *To Suppliers, Laborers, and Mechanics.* If bills for purchase of material, machinery or equipment, or payrolls covering employment of laborers or mechanics incurred by the Contractor or by any subcontractor hereunder are not paid promptly by the Contractor or subcontractor, as the case may be, the Contracting Officer may, in his discretion, withhold from payments otherwise due the Contractor an amount equivalent to the amount of any such bill or payroll. Should the Contractor neglect or refuse to pay such bills or payrolls or to direct any subcontractor to pay such bills or payrolls within five (5) days after notice from the Contracting Officer so to do, the Government shall have the right to pay such bills or payrolls directly, and in such event a deduction equal to five percent (5%) of the amount so paid directly shall be made from the Contractor's fee.

(b) *To Common Carriers.* The Government reserves the right to pay directly to common carriers any or all freight charges on construction plant, materials and supplies.

(End of clause)

252.236-7017 Approved construction plant.

As prescribed at 236.573-4, insert the following clause:

APPROVED CONSTRUCTION PLANT (JAN 1965)

Upon approval of the Contracting Officer, construction plant furnished by the Contractor will be shown in the attached Appendix "B" or modification thereto.

(End of clause)

252.236-7018 Option for supervision and inspection services.

As prescribed at 236.574, insert the following clause:

OPTION FOR SUPERVISION AND INSPECTION SERVICES (APR 1972)

At any time prior to six (6) months after satisfactory completion and acceptance of the work to be furnished hereunder, the Government at its option, may direct, by a written order, the Architect-Engineer to perform any part or all of the supervision and inspection services provided under Appendix A. Upon receipt of such direction, the Architect-Engineer shall proceed with such work and services.

(End of clause)

252.236-7019 Accident prevention.

As prescribed at 236.513, insert the following clause in solicitations and contracts:

Accident Prevention (JUL 1989)

(a) The Contractor shall provide and maintain work environments and procedures which will safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to contractor operations and activities; avoid interruptions of Government operations and delays in project completion dates; and control costs in the performance of the contract.

(b) For these purposes, on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall—

(1) Provide appropriate safety barricades, sign, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910;

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemd sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to equitable adjustment of the contract price or extension of the performance schedule on any stop order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of clause)

ALTERNATE I (JUL 1989)

If the contract will involve (a) work of a long duration or hazardous nature, or (b) performance on a Government facility which on the advice of technical representatives involves hazardous materials or operations which might endanger the safety of the public and/or Government personnel or property, add the following paragraph (f) to the basic clause:

(f) Before commencing the work, the Contractor shall—(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and (2) meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

[54 FR 30747, July 24, 1989]

252.236-7081 Cost limitation.

As prescribed at 236.580-1, insert the following provision:

COST LIMITATION (APR 1974)

A bid which does not contain separate bid prices for the items identified as subject to a cost limitation may be considered nonresponsive. A bidder by signing his bid certifies that each price bid on items subject to a cost limitation includes an appropriate apportionment of all applicable estimated costs, direct and indirect, as well as overhead and profit. Bids may be rejected which (i) have been materially unbalanced for the purpose of bringing affected items within cost limitations, or (ii) exceed the cost limitations unless such limitations have been waived by the Under Secretary of Defense (Research and Engineering) prior to award.

(End of provision)

252.236-7082 Additive or deductive items.

As prescribed at 236.580-2, insert the following provision:

ADDITIVE OR DEDUCTIVE ITEMS (APR 1968)

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds. For example, when the amount available is $100,000 and a bidder's base bid and four successive additives are $85,000, $10,000, $8,000, $6,000 and $4,000, the aggregate amount of the bid for purposes of award would be $99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed $100,000. In any case, all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order of priority need be followed only for determining the low bidder. After determination of the low bidder as stated, award in the best interests of the Government may be made to him on his base bid and any combination of his additive or deductive bid for which funds are determined to be available at the time of the award. *Provided* that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

(End of provision)

252.237-7000 Statement of work.

As prescribed by 237.304(S-70), insert the following clause:

STATEMENT OF WORK (OCT 1976)

(a) The Contractor shall furnish all labor, material and equipment and perform all work required for the dismantling, demolition and removal, or both, of ____ (identify properly) ____.

(b) The work shall be commenced ____ and shall be completed not later than ____.

(c) All property retained by the Government will be conditioned, handled and stored by the Contractor in such manner and place as prescribed in the specifications

(End of clause)

ALTERNATE I (OCT 1976)

In accordance with FAR 37.302, where the contractor is required to furnish a performance bond or other security in an amount deemed adequate to assure completion of the work and to protect the Government against damage to adjoining property during the performance of the contract, the following paragraph (d) shall be added to the above clause:

(d) A performance bond or other security in the penal sum of ______ dollars ($______) shall be furnished by the Contractor.

252.237-7100 Award to single bidder.

As prescribed at 237.7103(a), insert the following provision:

AWARD TO SINGLE BIDDER (OCT 1965)

Subject to the provisions contained herein, award shall be made to a single bidder. Bids must include unit prices for each item listed in order that bids may be properly evaluated. Failure to do this shall be cause for rejection of the entire bid. Bids shall be evaluated on the basis of the estimated quantities shown, and award shall be made to that responsible bidder whose total aggregate price is low.

(End of provision)

252.237-7101 Award to single offeror.

As prescribed at 237.7103(b), insert the following provision: services:

AWARD TO SINGLE OFFEROR (OCT 1983)

Subject to the provisions contained herein, award shall be made to a single offeror. Offers must include unit prices for each item listed in order that offers may be properly evaluated. Failure to do this shall be cause for rejection of the entire offer. Offers shall be evaluated on the basis of the estimated quantities shown. Discussions may be held with those offerors determined to be within the competitive range, and award shall be made to that responsible offeror whose total aggregate offer is determined to be in the best interest of the Government.

(End of provision)

252.237-7102 Requirements.

As prescribed at 237.7103 (c) and (d), insert the following clause:

REQUIREMENTS (OCT 1965)

(a) This is a requirements contract for the supplies or services specified in the Schedule, and for the period set forth in this contract. Delivery of supplies or performance of services shall be made only as authorized by orders issued in accordance with the clause entitled "Delivery Orders and Invoices." The quantities of supplies or services specified herein are estimates only and are not purchased hereby. Except as may be otherwise provided herein, in the event the Government's requirements for supplies or services set forth in the Schedule do not result in orders in the amounts or quantities described as "estimated" or "maximum" in the Schedule, such event shall not constitute the basis for an equitable price adjustment under this contract.

(b) The Government shall order from the Contractor all the supplies, services, and transportation set forth in the Schedule which are required to be purchased by the Government activity named herein, and the Contractor shall furnish to the Government such supplies, services, and transportation as may be ordered by the Contracting Officer. The Government, however, reserves the right not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other cogent reason. In the event of an epidemic or other emergency, the Contractor shall not be required to provide services in excess of the capacity of his facilities.

(End of clause)

252.237-7103 Area of performance.

As prescribed at 237.7103(c), insert the following clause:

AREA OF PERFORMANCE (APR 1974)

(a) The area of performance is specified in Attachment 1 to this contract. This contract includes taking possession of the remains at the place where they are located, transporting them to the Contractor's place of preparation, and transporting them thereafter to a place designated by the Contracting Officer. The Contractor shall not be entitled to reimbursement for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(b) If remains are located outside the area of performance, the Government may call on the Contractor or obtain the services elsewhere. If the Government calls on the Contractor, the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance. If the Government elects to have the remains brought into the area of performance by some other means, it may require the Contractor to perform after the remains are within the area of performance.

(c) The Government may require the Contractor to deliver remains to any point within one hundred (100) miles of the area of performance. In this case, the Contractor shall be paid the amount per mile indicated in the Schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

252.237-7104 Specifications.

As prescribed at 237.7103 (c) and (d), insert the following clause:

SPECIFICATIONS (OCT 1965)

Armed Services Specifications Care of Remains of Deceased Personnel, hereinafter referred to as "Specifications" are attached hereto and made a part of this contract.

(End of clause)

252.237-7105 Using activities.

As prescribed at 237.7103 (c) and (d), insert the following clause:

USING ACTIVITIES (OCT 1965)

Contracting Officers of the following activities may order services and supplies under this contract:

____

____

____

(End of clause)

252.237-7106 Delivery orders and invoices.

As prescribed at 237.7103 (c) and (d), insert the following clause:

DELIVERY ORDERS AND INVOICES (OCT 1965)

Delivery orders for supplies or services shall be issued by the Contracting Officer and shall set forth (i) the supplies or services being ordered; (ii) the quantities to be furnished; (iii) delivery or performance dates; (iv) place of delivery or performance; (v) packing and shipping instructions; and (vi) the address to which invoices for services rendered under this contract shall be sent. Amendments to delivery orders may be made by the Contracting Officer issuing the order. Each delivery order or change order shall cite the funds from which payment for the supplies or services ordered shall be made.

(End of clause)

252.237-7107 Delivery and performance.

As prescribed at 237.7103 (c) and (d), insert the following clause:

DELIVERY AND PERFORMANCE (OCT 1965)

Except as otherwise herein provided, the Contractor shall furnish the material ordered and perform the services specified in each case as promptly as possible but in no event later than thirty-six (36) hours after the Contractor has received notification to remove the remains, exclusive of the time necessary for the Government to inspect and check results of preparation. The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed seventy-two (72) hours from the time the remains are casketed and final inspection completed.

(End of clause)

252.237-7108 Subcontracting.

As prescribed at 237.7103 (c) and (d), insert the following clause:

SUBCONTRACTING (OCT 1965)

No contract shall be made by the Contractor with any other party for furnishing any of the work or services herein contracted for without the written approval of the Contracting Officer. This provision does not apply to contracts of employment between the Contractor and his personnel.

(End of clause)

252.237-7109 Additional default provision.

As prescribed at 237.7103 (c) and (d), insert the following clause:

ADDITIONAL DEFAULT PROVISION (OCT 1965)

(a) This clause supplements the "Default (Fixed Price Supply and Service)" clause of this contract.

(b) This contract may be terminated for default by written notice without the ten (10) day notice specified under (a)(2) of the "Default (Fixed Price Supply and Service)" clause if during the performance of this contract:

(1) the Contractor, through circumstances reasonably within his control or that of persons in his employ, performs any act or act under or in connection with this contract, or fails in the performance of any servic under this contract and such acts or failure may reasonably be considered to reflect discredit upon the Department of Defense i fulfilling its responsibility for proper care o remains,

(2) the Contractor, either by his own ac or through persons in his employ, solicit relatives or friends of the deceased to purchase supplies or services not provided fo under this contract. (The Contractor ma furnish supplies or arrange for services no provided for under this contract, only wher such other supplies or services are voluntarily requested, selected and paid for by th representatives of the deceased.);

(3) the services, or any part thereof, to be performed under this contract are, without the written authorization of the Contracting Officer, performed by an individual, partnership, corporation, or other person or business association whatsoever, other than the Contractor to whom this contract is awarded, his employees and members of the firm;

(4) the Contractor refuses to perform the services required for any particular remains; or

(5) the Contractor advertises in any way that he has a contract for mortuary services with the Government.

(c) All other provisions of the "Default (Fixed Price Supply and Service)" clause shall apply to a termination made pursuant to this "Additional Default Provision" clause.

(End of clause)

252.237-7110 Group interment.

As prescribed at 237.7103 (c) and (d), insert the followng clause:

GROUP INTERMENT (OCT 1965)

Payments to the Contractor for supplies and services provided for remains to be interred as a group shall be made on the basis of the number of caskets furnished rather than on the basis of the number of persons in the group.

(End of clause)

252.237-7111 Professional requirements.

As prescribed at 237.7103 (c) and (d), insert the following clause:

PROFESSIONAL REQUIREMENTS (OCT 1965)

The Contractor shall meet all state and local licensing requirements and shall furnish the highest quality of professional services. Preparation and transportation of remains shall be performed in accordance with all applicable Federal, state, and local health laws, statutes, and regulations. The Contractor shall obtain and furnish all necessary health department and shipping permits at no additional cost to the Government, and shall insure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

252.237-7112 Facility requirements.

As prescribed at 237.7103 (c) and (d), insert the following clause:

FACILITY REQUIREMENTS (OCT 1965)

The Contractor's building shall have complete facilities for maintaining the highest standards of solemnity, reverence, and assistance to the family, and for prescribed ceremonial services. The preparation room shall be clean, sanitary, and adequately equipped. The Contractor shall have, or be able to obtain, catafalques, church trucks and equipment for Protestant, Catholic, and Jewish services. The funeral home, furnishings, grounds and surrounding area shall be carefully maintained so as to present a clean and well-kept appearance.

(End of clause)

252.237-7113 Preparation history.

As prescribed at 237.7103 (c) and (d), insert the following clause:

PREPARATION HISTORY (OCT 1965)

For each body prepared, or in the case of group interment for each casket handled, the Contractor shall state briefly the results of the embalming process on a certificate furnished by the Contracting Officer.

(End of clause)

252.237-7200 Instruction to bidders (count of articles).

As prescribed at 237.7204(a), insert the following provision:

INSTRUCTION TO BIDDERS (COUNT OF ARTICLES) (OCT 1981)

(a) Bids must include unit prices for each item in a lot. Unit prices must include all costs to the Government of providing the services, including pickup and delivery charges. Failure to bid on any item in a lot shall be cause for rejection of the bid on that lot. Bids shall be evaluated on the basis of the estimated quantities stated in the invitation. Subject to the provision contained herein, award generally shall be made to a single bidder for all lots. The Government reserves the right, however, to award by individual lot when the Contracting Officer determines that this is more advantageous to the Government.

(b) Upon application to the Contracting Officer types of articles to be serviced may be inspected prior to bidding.

(End of provision)

252.237-7201 Instruction to bidders (bulk weight).

As prescribed at 237.7204(b), insert the following provision:

INSTRUCTION TO BIDDERS (BULK WEIGHT) (OCT 1981)

(a) Bids must be submitted on a unit price per pound of serviced laundry. Unit prices must include all costs to the Government of providing the service, including pickup and delivery charges. Bids shall be evaluated on the basis of the estimated pounds of serviced laundry stated in the invitation. Subject to the provision contained herein, award generally shall be made to a single bidder for all lots. The Government reserves the right, however, to award by individual lot when the Contracting Officer determines that this is more advantageous to the Government.

(b) Upon application to the Contracting Officer, types of articles to be serviced may be inspected prior to bidding.

(End of provision)

252.237-7202 Count of articles.

As prescribed at 237.7204(c)(1), insert the following clause:

COUNT OF ARTICLES (APR 1967)

(a) The Contractor shall be liable for return of the number and kind of articles furnished for service under this contract, in accordance with the count of the Contracting Officer, or the number and kind of articles agreed upon as a result of a joint count by the Contractor and the Contracting Officer at the time of delivery to the Contractor.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(End of clause)

ALTERNATE I (APR 1967)

As prescribed at 237.7204(c)(2), add the following paragraph (c) to the basic clause:

(c) Individual laundry bundle delivery tickets shall be provided by the Contractor as specified in the clause entitled "Individual Laundry" of the contract clauses of this contract.

252.237-7203 Loss or damage (count of articles).

As prescribed at 237.7204(d), insert the following clause:

LOSS OR DAMAGE (COUNT OF ARTICLES) (OCT 1981)

(a) The Contractor shall indemnify the Government for any property delivered to the Contractor for servicing under this contract which is lost, or which is damaged
in the opinion of the Contracting Of
cannot be repaired satisfactorily. In e
of these events, the Contractor shall p
the Government the value thereof i
cordance with Federal Supply Sche
price lists. If the property is not on
price lists, the Contracting Officer sha
termine a fair and just price. Credit sh
allowed for any depreciation in the val
the property at the time of loss or dan
and the parties hereto shall determin
amount of the allowable credit. If the
ties fail to agree upon the value of the
erty, or fail to agree on the amount of c
due, the dispute shall be determined a
vided in the clause hereof entitled
putes."

(b) In case of damage to any pro
which the Contracting Officer and the
tractor agree can be satisfactorily rep
the Contractor shall repair the prope
his expense in a manner satisfactory t
Contracting Officer.

(End of clause)

252.237-7204 Weight of articles (bag t

As prescribed at 237.7204(e
insert the following clause:

WEIGHT OF ARTICLES (BAG TYP (OCT 1981)

(a) The Contractor shall be liable fo
return of the articles furnished for se
under this contract.

(b) Delivery tickets in the numbe
copies required, and in the form appr
by the Contracting Officer, shall be
pleted by the Contractor at the time o
receipt of the articles to be serviced.
copy of each delivery ticket shall acco
ny the Contractor's invoice.

(c) Prior to Contractor pickup of ar
for service under this contract, the
tracting Officer shall ensure that each
contains only articles within a single
type as specified in the Schedule. The
tracting Officer shall ensure each b
weighed and that this weight and bag
are identified on the bag. The bag
always be included in this weight.
weight and the bag type shall be verifie
the Contractor who shall record the ver
weight and bag type on the delivery ti
One copy of the delivery ticket shall b
tained by the Government.

(d) At the time of delivery, the Contr
shall record the weight and bag typ
serviced laundry on the delivery ticket.
Contracting Officer will ensure that
weight and bag type are verified at tim
delivery.

(End of clause)

252.237-7205 Weight of articles (unsorted).

As prescribed at 237.7204(e)(2), insert the following clause:

WEIGHT OF ARTICLES (UNSORTED) (OCT 1981)

(a) The Contractor shall be liable for the return of the articles furnished for service under this contract.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer, shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(c) Prior to Contractor pickup of articles for service under this contract, the Contracting Officer shall ensure each bag is weighed and that this weight is identified on the bag. The bag shall always be included in this weight. This weight shall be verified by the Contractor who shall record the verified weight on the delivery ticket. One copy of the delivery ticket shall be retained by the Government.

(d) At the time of delivery, the Contractor shall record the weight of serviced laundry on the delivery ticket. The Contracting Officer shall ensure that this weight is verified at time of delivery.

(End of clause)

252.237-7206 Loss or damage (weight of articles).

As prescribed at 237.7204(e)(3), insert a clause substantially as follows:

LOSS OR DAMAGE (WEIGHT OF ARTICLES) (OCT 1981)

(a) The Contractor shall indemnify the Government for any property delivered to the Contractor for servicing under this contract which is lost, or which is damaged, and in the opinion of the Contracting Officer, cannot be repaired satisfactorily. In either of these events, the Contractor shall pay to the Government the value thereof in accordance with the price of _____* per pound. The Contractor shall only be required to pay the Government for any losses which exceed the maximum weight loss allowable by the clause hereof entitled "Maximum Weight Loss." If the parties fail to agree on the amount of credit due, the dispute shall be determined as provided in the clause hereof entitled "Disputes."

(b) In the case of damage to any property which the Contracting Officer and the Contractor agree can be satisfactorily repaired, the Contractor shall repair the property at his expense in a manner satisfactory to the Contracting Officer.

*Insert reasonable per pound price based on the average per pound value of the property to be serviced. When the contract requires laundry services on a bag type basis, reasonable per pound prices shall be identified by bag type.

(End of clause)

252.237-7207 Maximum weight loss.

As prescribed at 237.7204(e)(4), insert the following clause:

MAXIMUM WEIGHT LOSS (OCT 1981)

The maximum weight loss allowable in servicing the laundry is _____* percent of the weight recorded on delivery tickets, as set forth in the clause entitled "Weight of Articles," when the laundry is picked up. Any weight loss in excess of this amount shall be subject to the clause hereof entitled "Loss or Damage."

*Insert applicable percentage not to exceed eight percent (8%).

(End of clause)

252.237-7208 Individual laundry.

As prescribed at 237.7204(f), insert the following clause:

INDIVIDUAL LAUNDRY (APR 1967)

(a) The Contractor shall provide laundry service on both a unit bundle and on a piece-rate bundle basis for individual personnel when required by this contract. The total number of pieces listed in the column "Estimated Quantity" in the Schedule is the estimated amount of individual laundry for this contract, but does not constitute any representation as to the amount of individual laundry to be required. Individuals may elect whether they shall patronize the laundry services. Services covered by this provision shall be on a weekly basis, and the schedule for pickup and delivery shall be as specified elsewhere in this contract. Charges for individual laundry shall be on a per unit bundle or a piece-rate basis as indicated on the form, to be furnished by the Contractor, accompanying the bundle at time of pickup.

(b) The maximum number of pieces to be allowed per bundle is as specified in the Schedule and as follows:*

(1) Bundle consisting of twenty-six (26) pieces including laundry bag. This bundle shall contain approximately _____ pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(2) Bundle consisting of thirteen (13) pieces including laundry bag. This bundle

shall contain approximately _____ pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(c) Individual laundry bundles shall be accompanied by forms listing the items contained therein, prepared by the patrons concerned. Forms on individual laundry bundles shall clearly identify unit bundle or piece-rate bundle as applicable when both services are provided by this contract.

*The number of pieces and the composition of a bundle may be revised by the Contracting Officer prior to advertising to meet local conditions.

(End of clause)

252.237-7209 Special definitions of Government property.

As prescribed at 237.7204(g), insert the following clause:

SPECIAL DEFINITIONS OF GOVERNMEMT PROPERTY (APR 1967)

(a) The term "Government-furnished property," as used in this contract, means any supplies or facilities furnished to the Contractor by the Government for use in connection with the performance of this contract, but does not include the articles delivered to the Contractor to be laundered or dry cleaned.

(b) The term "Government-owned property," as defined in this contract, means all of the articles delivered to the Contractor to be laundered or dry cleaned, expressly including any articles which may actually be owned by individual Government personnel.

(End of clause)

252.237-7400 Definitions (Communications).

As prescribed at 237.7413(a), insert the following clause:

DEFINITIONS (COMMUNICATIONS) (APR 1971)

(a) The term "Communication Service Authorization" (CSA) means an order for services or facilities under this contract.

(b) The term "Appropriate Governmental Regulatory Body" means the Federal Communications Commission, any state-wide regulatory body, or any body with less than state-wide jurisdiction when operating pursuant to state authority. Regulatory bodies whose decisions are not subject to judicial appeal and regulatory bodies which regulate a company owned by the same entity which creates the regulatory body are not "appropriate governmental regulatory bodies" for the purposes of this contract.

(End of clause)

252.237-7401 [Reserved]

252.237-7402 Access.

As prescribed at 237.7413(a),
the following clause:

ACCESS (APR 1971)

(a) Subject to military security
tions, the Government shall permi
Contractor access at all reasonable ti
contractor furnished facilities; *Pr*
that, if by reason of military necessi
Government is unable to permit acce
Government at its own risk and e
shall maintain these facilities and th
tractor shall not be responsible for th
ice involving any of these facilities
the period of nonaccess, unless the
failure results from the Contractor'
or negligence.

(b) During periods when Contractor
is not permitted, cost attributable to
or damage to the equipment due
fault or negligence of the Governmen
be reimbursed to the Contractor at m
ly acceptable rates. Failure to agree s
a dispute concerning a question o
within the meaning of the "Disputes"
of this contract.

(End of clause)

252.237-7403 Amendment of contrac

As prescribed at 237.7413(a),
the following clause:

AMENDMENT OF CONTRACT (A
1971)

Upon thirty (30) days written
either party may request reconsiderat
this contract for the purpose of revis
conform with requirements of law or
vide for mutually acceptable changes.

(End of clause)

252.237-7404 Obligation of the G ment.

As prescribed at 237.7413(a),
the following clause:

OBLIGATION OF THE GOVERNM
(APR 1971)

The Government incurs no monet
ability under this instrument. The G
ment's liability shall arise, if appro
upon the issuance of a CSA pursuant
terms of this instrument.

(End of clause)

252.237-7405 [Reserved]

252.237-7406 Continuation of orders.

As prescribed at 237.7413(b), insert the following clause:

CONTINUATION OF ORDERS (APR 1971)

All orders heretofore issued by _____ under Contract Number _____, dated _____, are transferred to this contract and shall continue in full force and effect as though placed under this contract. Orders currently in effect which were heretofore issued by the above Department under other contracts of that Department with the Contractor may likewise be transferred to this contract.

(End of clause)

252.237-7407 Facilities and services to be furnished—common carriers.

As prescribed at 237.7413(b), insert the following clause:

FACILITIES AND SERVICES TO BE FURNISHED—COMMON CARRIERS (APR 1971)

(a) The Contractor shall furnish any classes of services or facilities that he offers or furnishes under published tariffs.

(b) When it is mutually agreed that the Contractor shall furnish nontariffed services, such services may be ordered in the manner provided in the clause entitled "Ordering of Facilities and Services." These may include the engineering, installation, alteration or maintenance of facilities owned either by the Contractor or by the Government, and may be located on or off Government premises or at any of its establishments.

(c) The Contractor agrees to interconnect his facilities with any Government-owned or furnished communications equipment, facilities or transmission media, in accordance with established technical criteria for assuring continuity of service and/or traffic without damage to or degradation of commercial facilities, upon request of the Contracting Officer.

(End of clause)

252.237-7408 Ordering of facilities and services—common carriers.

As prescribed at 237.7413(b), insert the following clause:

ORDERING OF FACILITIES AND SERVICES—COMMOM CARRIERS (APR 1971)

All services and facilities furnished, as provided in the clause entitled "Facilities and Services to be Furnished—Common Carriers," shall be ordered by the Contracting Officer on numbered CSAs referring to this contract and specifying the services and facilities desired, the premises involved, the address where bills for service shall be sent, the Disbursing Officer, and any other pertinent details. Acceptance of orders by the Contractor shall be acknowledged by (a) commencing performance or (b) written acceptance by a duly authorized representative. The Contractor shall sign and promptly return the order to the Government when required by the Contracting Officer. Orders pursuant to this clause which are unacceptable to the Contractor shall be returned to the Contracting Officer within _____ days of receipt stating the reasons therefor.

(End of clause)

252.237-7409 Rates, charges, and services—common carriers.

As prescribed at 237.7413(b), insert the following clause:

RATES, CHARGES, AND SERVICES—COMMON CARRIERS (APR 1971)

(a) The services and facilities furnished hereunder shall be in accordance with all applicable tariffs, rates, charges, rules, regulations or requirements (1) lawfully established by an appropriate governmental regulatory body; and (2) applicable to service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service as may be agreed upon, subject, when appropriate, to jurisdiction of an appropriate governmental regulatory body. For nontariffed services which are furnished, the Government shall be charged at the lowest rate and under the most favorable terms and conditions for similar service and facilities offered to any other customer.

(b) Recurring charges for services and facilities furnished under this contract shall, in each case, commence with satisfactory establishment of service or provision of facilities or equipments and are payable monthly in arrears.

(c) Subject to the "Cancellation or Termination of Orders-Common Carriers" clause, the Government may discontinue the use of any service or facilities furnished hereunder at any time. Upon discontinuance, the Government shall pay to the Contractor all charges for services and facilities adjusted to the effective date of discontinuance.

(d) Expediting charges are expenditures necessary to secure services earlier than those services normally would be provided, such as costs of overtime pay, or special shipment. Expediting charges shall be paid only when (1) payment thereof is provided for in the tariff established by an appropriate regulatory authority or (2) such charges are specially authorized in an expediting CSA. When authorized, expediting charges shall be the additional costs incurred by the Contractor and the subcontractor.

(e) When the services normally provided are technically unacceptable and the requirement necessitates the development, fabrication or manufacture of special equipment, the Government may provide such equipment or may direct the Contractor to procure the equipment or facilities upon a competitive basis to the extent practicable.

(f) If at any time the Government defers or changes its orders for any of the services hereunder but does not cancel or terminate them, the amount paid or payable to the Contractor for providing the services deferred or modified shall be equitably adjusted in accordance with applicable tariffs filed by the Contractor with the regulatory commission and in effect at the time of the deferral or change, or if no tariffs are in effect, by written agreement between the Government and the Contractor. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause.

(End of clause)

252.237-7410 Payment—common carrier.

As prescribed at 237.7413(b), insert the following clause:

PAYMENT—COMMON CARRIER (APR 1971)

The Government shall pay the Contractor, in arrears, upon submission of invoices for services and facilities furnished in accordance with the provisions of CSAs issued under this contract, the rates and charges for such services and facilities as set forth in the clause entitled "Rates, Charges and Services."

(End of clause)

252.237-7411 Tariff information.

As prescribed at 237.7413(b), insert the following clause:

TARIFF INFORMATION (APR 1971)

(a) A copy of the Contractor's current existing tariffs (including changes) shall be furnished promptly to the Contracting Officer upon request. As early as possible prior to the filing of any application to a Federal, state or any other regulatory agency seeking the establishment of, or changes in, rates, charges, services, or any other regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government, the Contractor shall notify the Contracting Officer thereof and shall furnish a copy of the application. Upon request therefor, the Contractor shall furnish a copy of all information, material and data developed or prepared in support of or in connection with such application.

(b) The Contractor also shall notify the Contracting Officer of any such application which may be filed with an appropriate governmental regulatory body by anyone other than the Contractor which affects or will affect the rate or conditions of services rendered or to be rendered promptly after the Contractor himself learns of that application. The foregoing requirements shall apply also to all such applications pending on the effective date of this contract.

(End of clause)

252.237-7412 Cancellation or termination of orders—common carriers.

As prescribed at 237.7413(b), insert the following clause:

CANCELLATION OR TERMINATION OF ORDERS—COMMON CARRIERS (APR 1971)

(a) In the event the Government cancels in whole or in part, any of the services which the Contractor is requested to provide under this contract, prior to the time such services are made available to the Government, or in the event that the Government terminates any of these services, in whole or in part, after they are made available to the Government, the Government shall reimburse the Contractor for the actual nonrecoverable costs which the Contractor has reasonably incurred in specially providing facilities and equipment the use of which is canceled or terminated and for which the Contractor has no foreseeable reuse. The amount of reimbursement shall be determined in the manner set forth in (b), (c) or (d) below.

(b) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this contract, in whole or in part, shall be determined in accordance with applicable tariffs governing cancellation and termination charges which are filed by the Contractor with an appropriate governmental regulatory body and are in effect on the date of termination, and which provide specific cancellation or termination charges for the facilities and equipment involved or set forth the manner in which such charges will be determined.

(c) The amount of the Government's liability upon cancellation or termination, in whole or in part, of any of the services ordered under this contract, which are not subject to an appropriate governmental regulatory body, shall be determined in accordance with a mutually agreed schedule as contained in the applicable Communication Services Authorization (CSA).

(d) If no such applicable tariffs are in effect on the date of cancellation or termination or set forth in the applicable CSA, the Government's liability shall be determined at the time of cancellation or termination of the facilities and equipment in accordance with the following settlement procedures:

(1) The Contractor agrees to provide the Contracting Officer, in such reasonable detail as he may require, certified inventory schedules covering all items of property or facilities in the Contractor's possession, the cost of which is included in the "Basic Cancellation or Termination Liability" for which the Contractor has no foreseeable reuse.

(2) The Contractor shall use his best efforts to sell such property or facilities when the Contractor has no foreseeable reuse or when the Department has not exercised its option to take title under the clause entitled "Title to Communications Facilities and Equipment." Any proceeds of such sale shall be applied in reduction of any payments to be made by the Government to the Contractor under a cancellation or termination settlement.

(3) Actual nonrecoverable costs shall be recorded in accordance with the established accounting procedures prescribed by the cognizant governmental regulatory authority or, if no such procedures have been prescribed, in accordance with generally accepted accounting procedures applicable to the provision of communication services for public use.

(4) The actual nonrecoverable costs are the installed costs of the facilities and equipment, less cost of reusable materials, and less net salvage. Installed costs shall include the actual cost of equipment and materials specifically provided or used, plus the actual cost of installing (including engineering, labor, supervision, transportation, rights-of-way, and any other items which are chargeable to the capital accounts of the Contractor) except any such costs for which the Government may have directly reimbursed the Contractor under the clause entitled "Special Construction and Equipment Charges." From the Contractor's installed cost, there shall be deducted the net salvage value (salvage value less cost of removal). In determining such net salvage, due consideration shall be given to foreseeable reuse by the Contractor of the facilities and equipment and due allowance shall be made for the cost of dismantling, removal, reconditioning and disposal of the facilities and equipment when necessary either to the sale of facilities or their reuse by the Contractor in another location.

(5) The "Basic Cancellation Liability" is defined as the actual nonrecoverable cost which the Government shall reimburse the Contractor at the time services are canceled. The "Basic Termination Liability" is defined as the nonrecoverable cost amortized in equal monthly increments throughout the liability period. Upon termination of services, the Government shall reimburse the Contractor for the nonrecoverable cost less such costs amortized to the date services are terminated. The liability period shall be established as mutually agreed to but will not exceed ten (10) years.

(6) When the "Basic Cancellation or Termination Liability" established by the CSA is based on estimated costs, the Contractor agrees to settle on the basis of actual cost at the time of termination or cancellation.

(7) The Contractor agrees that, if after settlement but within the termination liability period of the services, should the Contractor make reuse of equipment or facilities which were treated as nonreusable or nonsalvable in the settlement, the Contractor shall reimburse the Government for the value thereof.

(8) The Contractor agrees that in no event shall any costs be included which are not included in determining cancellation and termination charges under the Contractor's standard practices or procedures; and no cancellation or termination charge shall be made if such charge is not ordinarily made by the Contractor with respect to similar facilities or equipment furnished under similar circumstances.

(e) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the canceled or termination portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments is within the amount to which the Contractor is entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest at the rate of six percent (6%) per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *provided*, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of the cancellation or termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(f) Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes."

(End of clause)

252.237-7413 Reuse arrangements.

As prescribed at 237.7413(b), insert the following clause:

REUSE ARRANGEMENTS (APR 1971)

(a) When feasible, the Contractor shall reuse canceled or terminated facilities or equipment to minimize the charges to the Government.

(b) If at any time the Government requires that communications facilities or equipment be relocated within the Contractor's service area, the Government shall have the option of paying the costs of relocating the facilities or equipment in lieu of paying any termination or cancellation charge. The "Basic Termination Liability" applicable to the facilities or equipment in their former location shall continue to apply to the facilities and equipment in their new location. Monthly rental charges shall continue to be paid during the period.

(c) When there is another requirement or foreseeable reuse in place of canceled or terminated facilities or equipment, no charge shall apply and the basic cancellation or termination liability shall be appropriately reduced. When feasible, the Contractor shall promptly reuse discontinued channels or facilities, including equipment for which the Government is obligated to pay a minimum service charge.

(End of clause)

252.237-7414 Submission of cost or pricing data—common carriers.

As prescribed at 237.7413(b), insert the following clause:

SUBMISSION OF COST OR PRICING DATA—COMMON CARRIERS (APR 1971)

The Contractor agrees to provide certified cost or pricing data, as requested by the Contracting Officer whenever:

(a) the services are nontariffed services;

(b) a tariff, whether filed or contemplated to be filed, is for new services installed or developed primarily for Government use (and the data shall cover special construction charges in connection therewith);

(c) a tariff, whether filed or contemplated to be filed, in which specific rates and charges are not included;

(d) more than one commercial source (one or more of which is a common carrier) can offer the desired service but price competition is not considered adequate;

(e) required to support the reasonableness of special assembly rates and charges;

(f) required to support the reasonableness of special construction and equipment charges;

(g) required to support the reasonableness of those contingent liabilities which are fixed at the outset of the service; or

(h) required to support proposed cancellation and termination charges (pursuant to the clause entitled "Cancellation or Termination Orders") and reuse arrangements (pursuant to the clause entitled "Reuse Arrangements").

(End of clause)

252.237-7415 Audit and records—common carriers.

As prescribed at 237.7413(b), insert the following clause:

AUDIT AND RECORDS—COMMON CARRIERS (APR 1971)

(a) For the purpose of verifying the accuracy of the cost or pricing data submitted pursuant to the clause entitled "Submission of Cost or Pricing Data—Common Carriers," the Contracting Officer or his authorized representative shall, (1) until the expiration of three (3) years from the date of the submission of the data which forms the basis for a recurring or nonrecurring charge, or (2) until the expiration of the period of contingent liability with respect to such contingent liability, have the right to examine those books, records, documents, and other supporting data which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein, which were available to the Contractor as of the date of the certification of the data.

(b) The Contractor shall maintain such books, records, documents, and other evidence and accounting procedures and practices,. sufficient to reflect properly the direct and indirect costs which were the basis for the pricing of the CSA. The foregoing constitute "Records" for the purpose of this clause.

(c) The Contractor shall insert the substance of this clause in subcontracts awarded hereunder which furnish the basis for charges referred to in (a) hereof, unless its omission is authorized by the Contracting Officer.

(End of clause)

252.237-7416 Term and termination of contract—common carriers.

As prescribed at 237.7413(b), insert the following clause:

TERM AND TERMINATION OF CONTRACT—COMMON CARRIERS (JUL 1976)

This contract shall be effective for an initial term commencing ______ * and ending September 30, 19_ ** and shall continue in force thereafter from year to year, unless and until terminated by either party at any time upon not less than sixty (60) days' prior written notice to the other. Termination shall be applicable prospectively only and shall not operate as a cancellation of any orders previously issued or outstanding.

(End of clause)

*Insert the effective date of the contract.

**Insert the current fiscal year.

252.237-7417 Special construction and equipment charges.

As prescribed at 237.7413(c), insert the following clause:

SPECIAL CONSTRUCTION AND EQUIPMENT CHARGES (APR 1971)

(a) Except to the extent provided in the clause of this contract entitled "Cancellation or Termination of Orders," the Government shall not directly reimburse the Con- ractor for charges based on the cost of con- tructing any facilities or providing any quipment unless such direct reimbursement is specifically authorized by the Con- racting Officer. If, at any time, facilities or quipment for which the Government has irectly reimbursed the Contractor in whole r in part are discontinued, the Contractor hall allow the Government such credit as ay be appropriate for the value of the fa- lities or equipment attributable to the overnment's contribution. The value of e facilities and equipment shall be deter- ined on the basis of the foreseeable reuse the facilities and equipment by the Con- actor at the time their use is discontinued on the basis of the net salvage value, ichever is greater. The Contractor shall omptly pay the Government the amount any such credit.

b) The amount of any direct special con- uction charge shall not exceed the actual ts to the Contractor, properly allocable he services to be provided to the Govern- nt of specially constructing or providing facilities or equipment involved. In no event shall the amount of any direct special construction charge include costs incurred by the Contractor which are covered by a cancellation or termination liability or by the Contractor's recurring or other nonrecurring charges. The Contractor represents that in establishing his recurring charges for the services, facilities and equipment involved, he has not included in his rate base any costs for which he has been reimbursed by the Government and that depreciation charges are based only on the cost of facilities and equipment paid by the Contractor and not reimbursed by the Government. If, due to circumstances beyond the control and without the fault of the Contractor, it becomes necessary for the Contractor to incur costs for the replacement of any facilities or equipment for which direct special construction charges were assumed by the Government or for which the Contractor was reimbursed by the Government beyond that provided as a part of the Contractor's recurring charges, the Government shall assume such costs or reimburse the Contractor for such replacement costs at rates mutually acceptable to both the Government and the Contractor. Prior to incurring such costs, the Government shall have the right to terminate such service in accordance with the clause entitled "Cancellation or Termination of Orders."

(End of clause)

252.237-7418 Title to communication facilities and equipment.

As prescribed at 237.7413(c), insert the following clause:

TITLE TO COMMUNICATION FACILITIES AND EQUIPMENT (APR 1971)

Notwithstanding payment by the Government of any of the Contractor's costs of constructing communication facilities and equipment, title to all contractor furnished facilities and equipment used in providing communication services ordered under this contract shall remain in the Contractor except as may be specifically provided in a CSA issued and accepted hereunder, and the Contractor shall operate and maintain all such communication facilities and equipment.

(End of clause)

252.242-7000 Submission of commercial freight bills to the General Services Administration for audit.

As prescribed at 242.1403-2, insert the following clause:

SUBMISSION OF COMMERCIAL FREIGHT BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (AUG 1985)

When transportation costs are reimbursed to the Contractor, the Contractor is required to furnish to the General Services Administration, at the address below (or to the ACO if specified), individual commercial freight bills (or equivalent shipment data and evidence of payment) for transportation charges in excess of five hundred dollars ($500.00).

General Services Administration—BWAA
GSA Building
18th & F Streets, NW.
Washington, DC 20405

(End of clause)

252.242-7001 Material management and accounting system requirements and standards.

As prescribed in 242.7209, insert the following clause.

MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM REQUIREMENTS AND STANDARDS (MAY 1989)

(a) *Definitions.*

"Contractor", for purposes of this clause, means a business unit as defined in FAR 31.001, i.e., any segment of an organization, or an entire business organization which is not divided into segments.

"Material Management and Accounting System" (MMAS), as used in this clause, means the contractor's system(s) for planning, controlling, and accounting for the acquisition, use, and disposition of material. MMAS's may be manual or automated and they may be integrated with planning, engineering, estimating, purchasing inventory, and/or accounting systems, etc., or they may be essentially standalone systems.

"Valid Time-Phased Requirements" means material which is (1) needed to fulfill the production plan, including reasonable quantities for scrap, shrinkage, yield, etc., and (2) is charged/billed to contracts or other cost objectives in a manner consistent with their need to fulfill the production plan.

(b) *General.* The Contractor agrees to maintain a material management and accounting system (MMAS) that reasonably forecasts material requirements, assures that costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements, and maintains a consistent, equitable, and unbiased logic for costing of material transactions.

(c) *Applicability.* The Contractor will assess its MMAS and take reasonable action to comply with the standards set forth in section 242.7206 of the DoD FAR Supplement. Paragraphs (d) and (e) below are also applicable if the Contractor is a large business and, in its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contracts or subcontracts totaling fifty million dollars ($50 million) or more. Paragraphs (d) and (e) below are also applicable if the Contractor is a large business which, in its fiscal year preceding award of this contract, received DoD prime contracts or subcontracts totaling ten million dollars ($10 million) or more and, during performance of this contract, the Contracting Officer notifies the Contractor in writing that paragraphs (d) and (e) of this clause apply.

(d) *System Disclosure, Demonstration, and Maintenance Requirements.*

(1) The Contractor shall disclose its MMAS to the cognizant ACO and shall, upon the request of the ACO, demonstrate the degree to which its MMAS conforms to the standards set forth in section 242.7206 of the DoD FAR Supplement. If the Contractor desires the Government to protect such information as privileged or confidential, the Contractor shall notify the Government representative to whom the information is submitted, i.e., the ACO, or the auditor, and the Contractor shall ensure an appropriate legend is on the face of the document(s) at the time of submission.

(i) A MMAS disclosure is adequate when the Contractor has provided the cognizant ACO documentation which accurately describes those policies, procedures, and practices that the Contractor currently uses in its MMAS in sufficient detail for the Government to reasonably make an informed judgment regarding the adequacy of the Contractor's MMAS.

(ii) A MMAS demonstration is adequate when the Contractor has provided the cognizant ACO sufficient evidence to demonstrate the degree of compliance of its MMAS with the standards at 242.7206 of the DoD FAR Supplement, including an estimate of the cost impact to the Government of any significant deficiencies and a comprehensive plan for correcting any significant deficiencies.

(2) Significant changes to the MMAS must be disclosed to the ACO within 30 days of their implementation.

(e) *MMAS Deficiencies.* (1) If during the period of performance of this contract, the Contractor receives a report of the evaluation of its MMAS, the Contractor agrees to respond as follows:

(i) If the Contractor agrees with the report findings and recommendations, the Contractor shall, within thirty (30) days of receipt of such report, indicate its agreement in writing and shall proceed to excute the corrective action plan, if any, agreed-to by the ACO.

(ii) If the Contractor disagrees with the report findings and recommendations, the Contractor shall respond in writing within thirty (30) days of receipt of the report, indicating its rationale for each area of disagreement.

(2) The ACO shall evaluate the Contractor's response to the report and notify the Contractor of his/her determination concerning any remaining deficiencies and/or the adequacy of any proposed or completed corrective action(s).

(End of clause)

[54 FR 20596, May 12, 1989]

252.242-7002 [Reserved]

252.242-7003 Certification of Indirect Costs.

As prescribed in 247.770-1, insert the following clause:

CERTIFICATION OF INDIRECT COSTS
(APR 1986)

(a) The Contractor shall certify any proposal to establish or modify billing rates or to establish final indirect cost rates in the form set forth in paragraph (b) of this clause. The certificate shall be signed on behalf of the Contractor by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal. The Contractor understands that if the Contractor fails to submit a certificate as required herein, payments on account of indirect cost shall be at rates unilaterally established by the Government.

(b) *Certificate of Indirect Costs.* The certificate of indirect costs shall read as follows:

CERTIFICATE OF INDIRECT COSTS

This is to certify that to the best of my knowledge and belief:

1. I have reviewed the indirect cost proposal submitted herewith;

2. All costs included in the proposal (identify, date) to establish billing or final indirect cost rates for (identify period covered by rate) are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Department of Defense applicable to those contracts;

3. This proposal does not include any costs which are unallowable under applicable cost principles of the Department of Defense, such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, defense of fraud proceedings, and good will; and

4. All costs included in this proposal are properly allocable to Defense contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Firm: ————————————————

Signature: ————————————————

Name of Corporate Official: ——————

Title: ————————————————

Date of Execution: ——————————

(End of clause)

252.243-7000 Engineering change proposals.

As prescribed at 243.205(S-70), insert the following clause:

ENGINEERING CHANGE PROPOSALS
(AUG 1985)

(a) The Contracting Officer may at any time, in writing, request the Contractor to prepare and submit an Engineering Change Proposal (ECP) as that term is defined in DOD-STD-480, within the scope of this contract, as hereafter set forth. Upon receipt of such request, the Contractor shall submit to the Contracting Officer the information specified by, and in the format required by paragraph 4.6 of DOD-STD-480.

(b) Any Contractor ECP shall set forth a "not to exceed" price* and delivery adjustment or a "not less than" price* and delivery adjustment, acceptable to the Contractor if the Government subsequently orders such ECP. If ordered, the equitable increase shall not exceed, nor shall the equitable decrease be less than, such "not to exceed" or "not less than" amounts.** This paragraph does not preclude any revision(s) or correction(s) of an ECP in accordance with paragraph 4.10 and 4.11 of DOD-STD-480. Concurrently with the submission of any ECP under this contract in which the proposed aggregate cost is $100,000 or greater, the Contractor shall submit to the Contracting Officer a completed SF 1411. At the time of agreement upon the price of the ECP, the Contractor shall submit a signed Certificate of Current Cost or Pricing Data.

(End of clause)

ALTERNATE I (APR 1984)

As prescribed at 243.202(S-70), insert the following paragraph:

(c) If the price* adjustment proposed for any Contractor-originated ECP (excluding any Government-requested ECP or Value Engineering Change Proposal) is*** (percent of the contract price*) (or $***) or less, such change shall be made at no adjustment of the contract price*.

*Use term suitable to type of contract.

**In cost-reimbursement type contracts, replace this sentence with the following sentence: "Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the estimated cost set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost."

***To be negotiated.

[51 FR 46335, Dec. 23, 1986, as amended at 55 FR 19082, May 8, 1990]

252.243-7001 Pricing of adjustments.

As prescribed at 243.205(S-71), insert the following clause:

PRICING OF ADJUSTMENTS (APR 1984)

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other clause of this contract, such costs shall be in accordance with Part 31 of the Federal Acquisition Regulation and Part 231 of the DoD FAR Supplement in effect on the date of this contract.

(End of clause)

252.245-7000 Government-furnished mapping, charting and geodesy property.

As prescribed in 245.310-1, insert the following clause:

GOVERNMENT-FURNISHED MAPPING, CHARTING AND GEODESY PROPERTY (NOV 1988)

(a) *Definition*. "Mapping, Charting and Geodesy (MC&G) Property", as used in this clause, means geodetic, geomagnetic, gravimetric, aeronautical, topographic, hydrographic, cultural, and toponymic data presented in the form of topographic, planimetric, relief, or thematic maps and graphics; nautical and aeronautical charts and publications, and in simulated photographic, digital, or computerized formats.

(b) MC&G Property shall not be duplicated, or otherwise reproduced for purposes other than those necessary for performance of the contract.

(c) At the completion of performance of the contract, the Contractor, as directed by the Contracting Officer, shall either destroy or return to the Government all Government-Furnished MC&G Property not co sumed in the performance of this contrac

(End of clause)

[53 FR 50417, Dec. 15, 1988]

252.246-7000 Material inspection and r ceiving report.

As prescribed at 246.370, insert th following clause:

MATERIAL INSPECTION AND RECEIVING REPORT (DEC 1969)

At the time of each delivery of supplies o services under this contract, the Contracto shall prepare and furnish to the Government a Material Inspection and Receivin Report in the manner and to the extent r quired by Appendix I, "Material Inspectio and Receiving Report" (see DoD FAR Su plement 246.670).

(End of clause)

252.246-7001 Warranty of data.

As prescribed at 246.710, insert th following clause:

WARRANTY OF DATA (NOV 1974)

(a) Technical data means recorded information, regardless of form or characteristic of a scientific or technical nature. It may for example, document research, experimental, developmental or engineering work; o be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design typed documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing and management data, or other information incidental to contract administration.

(b) Notwithstanding inspection and acceptance by the Government of technical data furnished under this contract and notwithstanding any provision of this contract concerning the conclusiveness thereof, the Contractor warrants that all technical data delivered under this contract will at the time of delivery conform with the specifications and all other requirements of this contract. The warranty period shall extend for three (3) years after completion of the delivery of the line item of data (as identified in

DD Form 1423) of which the data forms a part; or any longer period specified in the contract.

(c) The Contractor agrees to notify the Contracting Officer in writing immediately of any breach of the above warranty which the Contractor discovers within the warranty period.

(d) The following remedies shall apply to all breaches of the above warranty *Provided*, that the Government notifies the Contractor of the breach in writing within the warranty period.

(1) Within a reasonable time after the Contracting Officer notifies the Contractor of a breach of warranty, the Contracting Officer may:

(i) By written notice, direct the Contractor to correct or replace at the Contractor's expense the nonconforming technical data promptly; or

(ii) If the Contracting Officer determines that the Government no longer has a requirement for correction or replacement of the data, or that the data can be more reasonably corrected by the Government, inform the Contractor by written notice that the Government elects a price or fee adjustment in lieu of correction or replacement.

(2) If the Contractor refuses or fails to comply with a direction under (1)(i) above, the Contracting Officer may, within a reasonable time of such refusal or failure:

(i) by contract or otherwise, correct or replace the nonconforming technical data and charge the Contractor the cost occasioned to the Government thereby; or

(ii) elect a price or fee adjustment in lieu of correction or replacement.

(3) The remedies set forth in this clause represent the exclusive means by which the rights conferred on the Government by this clause may be enforced.

(f) The provisions of this clause apply anew to that portion of any technical data which is corrected or furnished in replacement under (d)(1)(i) above.

(End of clause)

ALTERNATE I (NOV 1974)

As prescribed at 246.710, insert the following paragraph:

(3) In addition to the remedies specified under (d)(1) and (2) above, Contractor shall be liable to the Government for all damages sustained by the Government as a result of breach of the warranty specified in this clause; however, the additional liability under this subparagraph (3) shall not exceed 75% of the target profit. If the breach of the warranty specified in (b) of this clause is with respect to data supplied by an equipment subcontractor, the limit of the prime contractor's liability shall be 10% of the total subcontract price in the case of a firm fixed-price subcontract, 75% of the total subcontract fee in the case of a cost-plus-fixed-fee or cost-plus-award-fee subcontract, or 75% of the total subcontract target profit or fee in the case of a fixed-price or cost-plus-incentive-type contract. Damages due the Government under the provisions of this warranty shall not be considered as an allowable cost. The additional liability specified in this paragraph (3) shall not apply:

(i) With respect to the requirement under Category E or I of MIL-D-1000, provided that the data furnished by the Contractor was current, accurate at time of submission and did not involve a significant omission of data necessary to comply with such requirements; or

(ii) With respect to specific defects as to which the Contractor discovers and gives written notice to the Government before the error is discovered by the Government.

ALTERNATE II (NOV 1974)

As prescribed at 246.710, insert the following paragraph:

(3) In addition to the remedies specified under (1) and (2) above, the Contractor shall be liable to the Government for all damages sustained by the Government as a result of breach of the warranty specified in this clause; however, the additional liability under this subparagraph (3) shall not exceed 10% of the total contract price. If the breach of the warranty specified in (b) of this clause is with respect to data supplied by an equipment subcontractor, the limit of the prime contractor's liability shall be 10% of the total subcontract price in the case of a firm fixed-price subcontract, 75% of the total subcontract fee in the case of a cost-plus-fixed-fee or cost-plus-award-fee subcontract, or 75% of the total subcontract target profit or fee in the case of a fixed-price or cost-plus-incentive-type contract. The additional liability specified in this paragraph (3) shall not apply:

(i) With respect to the requirement under Category E or I of MIL-D-1000, provided that the data furnished by the Contractor was current, accurate at time of submission and did not involve a significant omission of data necessary to comply with such requirements' or

(ii) With respect to specific defects as to which the Contractor discovers and gives written notice to the Government before the error is discovered by the Government.

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38248, Sept. 29, 1988]

252.247-7000 Scope of contract.

As prescribed at 247.270-9(a), insert the following clause:

SCOPE OF CONTRACT (AUG 1964)

(a) *General.* The Contractor shall load and discharge cargoes and in connection therewith shall perform all the duties of a stevedore on any vessel which the Contracting Officer may designate at ______ upon the terms and conditions hereinafter set forth for the term of this contract, beginning ______ and ending ______; *Provided,* however, that any work started before and not completed by the expiration of this contract shall be governed by the terms of this contract unless otherwise directed by the Contracting Officer.

(b) *Contractor's Duties.*

(1) *Loading.* In loading vessel, the Contractor shall remove and handle cargo from place of rest on pier or in pier shed or within the cargo assembly area; also from open-top railroad cars, trucks and trailers alongside ship; also from barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall stow said cargo in any space in vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks, in the order directed by and in a manner satisfactory to the Contracting Officer.

(2) *Discharging.* In discharging vessel, the Contractor shall remove and handle cargo from any space in the vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks. The Contractor shall land said cargo at place of rest on pier or in pier shed or within the cargo assembly area; also on open-top railroad cars, trucks and trailers alongside ship; also on barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall perform such discharging in the order directed by and in a manner satisfactory to the Contracting Officer.

(3) *Handling Explosives.* In addition to (1) and (2) above, the following provisions are applicable to the loading and discharging of explosives:

(a) In loading explosives the Contractor shall perform all the stevedoring services necessary for the breaking-out and discharging from railroad cars, trucks and/or lighters alongside ship or from place of rest on pier, transporting to the vessel, and properly loading, stowing and normal securing and chocking in the vessel in a manner directed by applicable U.S. Coast Guard, Army, or Navy regulations.

(b) In discharging explosives the Contractor shall perform all stevedoring services necessary for discharging cargo from the vessel to place of rest on pier or the transporting to and loading into railroad cars, trucks and/or lighters. The Contractor shall also prepare and line the cars for handling the cargo (except the laying of new flooring) and shall brace, secure, cut bands, and lash the cargo in the cars in accordance with applicable regulations and shall place "explosives" placards on the cars prior to release, and shall close and seal all doors.

(c) The furnishing and preparation of gates, studs, new flooring, etc., for blocking railroad cars, as well as prefabrication of blocking in the vessel's hold, will be at the expense of the Government.

(d) The Contractor shall not be compensated for standby time when caused by slow-up or delay of one of his operations, which delay directly affects the other operations, such as delay in loading railroad cars, or in discharging from ship's hatches, unless such slow-up or delay was beyond the control and without the fault or negligence of the Contractor. This does not include the time required for shifting cars. No standby time will be allowed unless previously approved by the Contracting Officer.

(4) *Cargo Assembly Area.* The term "cargo assembly area" as used in this contract, is defined as ______ feet from either extremity of the vessel and for a distance ______ feet from the vessel inboard side.

(c) *Damage Reports.* In all instances where cargo, vessel, vessel equipment or Government equipment sustains damage through handling by the Contractor's employees, a full report of the fact and the extent of such damage shall be submitted by the Contractor to the Contracting Officer within twenty-four (24) hours following the occurrence of such damage.

(d) *Rigging and Unrigging.* When the ship's gear is used for handling cargo, the Contractor, at his own expense, shall rig and unrig all gear, including the rigging and unrigging of heavy-lift gear when the heavy-lift booms are used, and shall hoist, lower and secure hatch tents when necessary; *Provided,* however, that where any one set of gear is rigged for handling less than one hundred (100) payable tons of cargo on a commodity rate basis, the Contractor shall be compensated on an extra-labor basis for the rigging and unrigging of such set of gear. Rigging and unrigging shall include topping, lowering, and trimming of booms. When the Contractor is required to perform any rigging and unrigging services for the purpose of performing extra labor services or performs any such services at the request of the Contracting Officer for any purpose other than loading or discharging cargo on a commodity rate basis, he shall be compensated therefor at extra labor rates. When the Contractor is required to break out booms from collars or boom rest, or to reeve guys on topping lifts through blocks he shall be compensated therefor on an extra-labor basis.

(e) *Opening and Closing Vessel.* The Contractor shall, at his own expense, remove and replace tarpaulins, battens, hatch covers, and beams with respect to all decks and deep tanks both during loading unloading operations and when necessary because of weather or working conditions, as directed by the Contracting Officer; *Provided, however*, that the opening and closing on any one hatch shall be performed on an extra-labor basis where less than one hundred (100) payable tons are to be loaded and/or discharged at the commodity rate on any hatch so worked, and also where the Contractor is required to open and close the vessel for the purpose of performing extra-labor services. The removing, handling, replacing, or setting of reefer plugs during the handling of cargo in any or all refrigerated or chilled space aboard the vessel is included in the basic commodity rate, except where the complete operation is on an extra-labor basis. When the Contractor is required to open or close reefer plugs more than once in any four (4) hour shift because of a change in orders or type of cargo, he shall be compensated therefor on the basis of fifteen (15) minute detention time for men in gangs, including equipment drivers and gang foremen.

(f) *Docking, Undocking and Shifting of Vessels*. The Contractor shall, when requested by the Contracting Officer, furnish men to handle lines for docking, undocking, and shifting of vessels, and the Government shall compensate the Contractor therefor on an extra-labor basis.

(g) *Shifting Barges, Lighters, Scows, and Car Floats*. Barges, lighters, scows, and car floats will be placed alongside the vessel without cost to the Contractor. When they are shifted from hatch to hatch, the Contractor shall do so at his own expense unless operational conditions make movement by ship's gear impracticable in which event the operation shall be at the expense of the Government.

(h) *Gear Supplied by Government*. The Government, at its own expense, shall furnish and maintain in good working order the following: blocks on booms, booms, heavy lift cranes, wire and rope falls rigged, gant-lines rigged on booms, hatch tents, lighters and floating derricks, lights on wharves and vessels, pallet boards, power and steam necessary, preventers on booms, and winches. Floating derricks and heavy lift dock cranes will not be used when, in the opinion of the Contracting Officer, the ship's equipment can be used satisfactorily.

(i) *Gear Supplied by Contractor*. The Contractor shall perform an efficient stevedoring operation and except as provided in (h) and (j) of clause, shall at his own expense, furnish all necessary and proper gear, including the following: ammunition gear (when handling ammunition and explosives), roller conveyors, hooks, cargo nets, saveall nets, rollers, skids, chain slings, platform slings, wire and rope slings (except heavy-lift slings used in connection with shore or floating heavy-lift cranes), drag lines, spreaders, hand-trucks, machinery dollies, trailers, lift trucks, tractors, and tractor cranes; *Provided*, however, that the Contractor shall be compensated for furnishing mobile equipment in accordance with the applicable schedule in the "Schedule of Rates" clause of this contract, whenever such equipment is furnished in connection with services performed on an extra-labor basis.

(j) *Rental of Mobile Equipment*.

(1) The Contractor, when directed by the Contracting Officer to supply extra-labor services, shall upon request of the Contracting Officer also supply and maintain the necessary mobile equipment to the extent available, and the Contractor shall be compensated therefor at the rates set forth in the applicable schedule of the "Schedule of Rates" clause of this contract.

(2) Upon request, the Government will supply mobile equipment, if available, to the Contractor, and the Government shall be compensated therefor at the rates set forth in the applicable schedule of the "Schedule of Rates" clause of this contract.

(3) If the Government supplies mobile equipment to the Contractor for use in performing extra-labor services, no charge shall be made by the Government for the use of such mobile equipment.

(k) *Transportation of Gear by Contractor*. The Contractor will transport his own gear and equipment when necessary at his own expense, except transportation of said gear and equipment shall be at Government expense when the vessel is loading and unloading in stream, or at any other location inaccessible to trucks.

(l) *Tiering*. If cargo tiered on the pier or in the cargo assembly area is beyond the reach of the Contractor's equipment, the Government will break it down at the place of tiering so that it can be handled by the Contractor's equipment. No charge will be made by the Contractor for removing cargo from piles within the reach of his equipment. The tiering of cargo above reach of the Contractor's equipment will be at Government expense. When the Contractor is required to break down cargo tiered above the reach of his equipment or to tier cargo beyond the reach of his equipment, the Government will compensate the Contractor therefor on an extra-labor basis.

(m) *Dunnage*. The loading, shifting within the same hatch, and laying of all dunnage (including cordwood, tarpaulins, matting and reefer stripping) necessary to properly stow and secure the vessel's cargo and reverse the operation when discharging the vessel's cargo, is included in the basic commodity rate.

(n) *Other Work*.

(1) *Lashing and Securing.* The Contractor shall, at his own expense, lash and secure all cargo below deck when loaded on a commodity-rate basis, as directed by the Contracting Officer. Lashing and securing of cargo below deck which was loaded in an extra-labor basis and the lashing of all on-deck cargo will be done at extra-labor rates. The Government will supply lumber, wire, turn-buckles, and other equipment as may be required for dunnaging, securing, and shoring cargo in all instances.

(2) *Unlashing and Unsecuring Cargo.* When cargo is discharged on a commodity-rate basis the Contractor shall, at his own expense, unlash all cargo on deck and below deck and shall remove all tomming, chocking tank beds, and all types of double dunnage flooring, except false decks, as directed by the Contracting Officer. The unlashing and unsecuring of cargo on deck and below deck, if discharged on an extra-labor basis, will be done at extra-labor rates.

(3) *Carpenter Work, Welding and Burning.* All necessary carpenter work and welding and burning shall be at the expense of the Government.

(o) *Tonnage Figures and Invoices.* The weight ton referred to in this contract is a ton of two thousand two hundred forty (2,240) pounds, and the measurement ton is a ton of forty (40) cubic feet. Where rates are provided on both a weight and measurement basis, the Contractor shall be paid on the basis of a manifested ton, whichever produces the greater tonnage, the weight ton of two thousand two hundred forty (2,240) pounds or the measurement ton of forty (40) cubic feet. The maximum measurement tonnage upon which compensation is to be computed for any manifested item of cargo for any single lift shall be one hundred fifty (150) tons. The Government will furnish the Contractor a breakdown of cargo loaded or discharged according to the commodity list, or, at the option of the Contracting Officer, manifests will be furnished. Invoices of each vessel loaded or discharged will be submitted by the Contractor not later than ten (10) days after receipt of tonnage figures or manifests. Progress payments for services performed on each vessel may be made upon approval of the Contracting Officer, *Provided,* that such progress payments shall not exceed ninety percent (90%) of the direct labor cost to the Contractor of the services upon which payment is made, which cost shall be determined from evidence submitted by the Contractor and which must be such as to be satisfactory to the Contracting Officer. No services will be paid for by the Government other than those specifically enumerated herein and provided for in the rate schedule of this contract or elsewhere in this contract.

(p) *Hardship (Unusual Conditions).* If the Contracting Officer determines that due to unusual vessel, dock, or cargo conditions, the loading or unloading of any particular cargo at the basic commodity rates will work a hardship upon the Contractor, he may so certify in writing (in advance, if possible) and authorize the compensation to the Contractor for loading or unloading such cargo at the extra-labor rates set forth in the applicable schedule in the "Schedule of Rates" clause of this contract. Unusual conditions will include, but not be limited to, inaccessibility of ship's cargo gear to place of stowage, side port operations, and small quantities of cargo in any one hatch.

(q) *Detentions.*

(1) Detention (sometimes referred to as "stand-by time" or "waiting-time") is time lost as a result of the stoppage, or inability to start, of loading or discharging of cargo due to causes beyond the control and without the fault or negligence of the Contractor, including, but not limited to, a breakdown of the vessel's equipment or Government-furnished gear, bad weather, non-readiness of the vessel, non-arrival of cargo or non-availability of equipment required to be furnished by the Government.

(2) When cargo is worked on a commodity rate basis the Contractor shall, without limitation, absorb each detention of ____ minutes or less; but the Government shall pay the Contractor at detention rates for men in gangs, including equipment drivers and gang bosses, for each detention in excess of ____ minutes including the first ____ minutes thereof.

(3) When loading or discharging of cargo is performed on an extra-labor basis, the Government will pay the Contractor at extra-labor rates for the first ____ minutes of each detention and will pay the Contractor on a detention rate basis for all time of each detention except the first ____ minutes.

(4) Minimum time is defined as the time in addition to time actually worked for which the Contractor is required to pay his employees to comply with minimum time requirements of labor agreements applicable to the Contractor and his employees. The Government shall pay the Contractor for minimum time at detention rates.

(5) If any detention or minimum time, as defined in (1) and (4) above, is due to the fault of the Contractor or the failure of the Contractor to comply with proper instructions of the Contracting Officer, the entire time resulting therefrom shall be at the expense of the Contractor.

(r) *Extra Labor.* The Contractor shall when directed by the Contracting Officer supply extra labor for miscellaneous services when not occasioned by the fault or negligence of the Contractor, and shall be

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ployed, the Contractor shall be compensated therefor at the rates specified in the applicable schedule of the "Schedule of Rates" clause of this contract, or, if the contract contains no such schedule, at the actual out of pocket cost to the Contractor.

(w) *Income for Handling Lighters, Cars, etc.* Any and all income derived from sources other than provided for in this contract for the handling of cargo direct to or from lighters, barges, scows, trucks, and railroad cars, and to or from ships under this contract, will be for the account of the Contractor and shall be collected by the Contractor. Collection of this income by the Contractor is reflected in the commodity rates.

(End of clause)

252.247-7001 Schedule of rates.

As prescribed at 247.270-9(a), insert the following clause:

SCHEDULE OF RATES (AUG 1964)

(a) Commodity Rates. The Contractor will be compensated for services, except those specified elsewhere in this contract, at the commodity rates listed herein which are based on straight time rates of pay only. The rates named in Columns A and B are based on normal operations involving use of ship's gear.

SCHEDULE I—COMMODITY TONNAGE RATES

Commodity list	Loading A	Discharging B
	Ship's gear 2240# 40c/f	Ship's gear 2240# 40c/f

NOTE: List only commodities justifying a specific rate

(b) Miscellaneous Hourly Rate Schedules.

TABLE OF SCHEDULES (RATE PER HOUR)

Rating	Extra labor straight time rate—Schedule II	Travel time and detentions in nonexplosive area—Schedule III	Overtime differential—Schedule IV	Explosive straight time rate—Schedule V	Travel time and detentions in explosive area—Schedule VI	Explosive overtime differential—Schedule VII	Premium meal hour differential—Schedule VIII	
							Nonexplosive	Explosive
Longshoremen								
Winch drivers								
Hatch tenders								
Fork-lift operators								
Jitney operators								
Crane operators								
Ship foremen								
Supercargoes								
Head clerks								
Clerks								
Checkers								
Walking bosses								
Assistant ship foremen								
Crane foremen								

(c) *Stevedoring Cargo Penalty Rates—Schedule IX.* Penalty differentials relative to types of workers, cargo, and working conditions will be determined in accordance with the applicable collective bargaining agreements and the Contractor will be compensated therefor at the following penalty differential rates:

Cargo carrying straight time penalty of	Rates per man per hour		
	S/T	O/T	Premium meal hour

(d) *Equipment Rental-Schedule X.*

Type of equipment	Rates per hour*
Tractor	
Fork-lift trucks	
Cranes up to 10 tons with operator and oiler	
Cranes from 10 to 20 tons with operator and oiler	
Ross lumber carriers	
Miscellaneous small gear per gang	Rates per gang per hour

*Rates per hour include fuel, lubricants, and maintenance.

(End of clause)

252.247-7002 Price escalation.

As prescribed at 247.270-9(b), insert the following clause:

PRICE ESCALATION (AUG 1964)

(a) The Contractor warrants that the prices set forth in this contract are based upon the wage rates, allowances, and conditions as set forth in the collective bargaining agreements between him and his labor employees which are in effect as of ______ and which are generally applicable to the port where work under this contract is performed and are applicable to operations by the Contractor on non-Government work as well as under this contract. The Contractor further warrants that the prices herein do not include any allowance for any increase to his costs to perform the contract that may thereafter become effective pursuant to the terms of said collective bargaining agreements or that may result from the modification(s) of said collective bargaining agreements thereafter made effective.

(b) If, during the performance of this contract, there are from time to time increases or decreases in the wage rates, allowances, fringe benefits and conditions pertaining to its direct labor employees pursuant to the provisions of the aforesaid collective bargaining agreements or as a result of effective modifications thereto which increase or decrease his costs to perform this contract, the Contractor shall notify the Contracting Officer thereof within sixty (60) days of receipt of notice of such increase or decrease. Such notice shall include the Contractor's proposal for an adjustment in the contract commodity, activity, or man-hour prices to be negotiated in accordance with paragraph (c) below and shall be accompanied by data, in such form as the Contracting Officer may require, explaining (i) the causes, (ii) the effective date, and (iii) the amount of the increase or decrease of the Contractor's proposal for such adjustment.

(c) Promptly upon receipt of any notice and data described in (b) above, the Contractor and the Contracting Officer shall negotiate an adjustment, and the effective date thereof, in the contract commodity, activity, or man-hour prices; provided, however, no adjustment upward in excess of ______ percent per annum of the existing commodity, activity, or man-hour prices will be allowed, except as provided in the "Changes" clause of this contract. Increases or decreases in the contract prices shall reflect, in addition to the direct labor costs and variable indirect labor costs, the concomitant increases or decreases in the following costs: social security and unemployment compensation taxes and workman's compensation insurance. No adjustment may be made to increase the dollar amount allowances of the Contractor's profit. The agreed-upon adjustment, the effective date thereof, and the appropriately revised commodity, activity, or man-hour prices for services set forth in the schedule of rates, shall be set forth in a supplemental agreement to this contract. Failure of the parties to agree to an adjustment under this clause shall be deemed to be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. Pending agreement on, or determination of, any such adjustment and its effective date, the Contractor shall continue performance.

(d) Notwithstanding the foregoing, there shall be no adjustment for any increase or decrease in the quantities of labor that the Contractor contemplated for each specific commodity except as may result from modifications of the collective bargaining agreements. For the purpose of administering this clause, the Contractor shall submit to the Contracting Officer, within five (5) days after award, the accounting data and computations used by the Contractor to determine his estimated efficiency rate in the performance of this contract, to include the Contractor's computation of the costs apportioned for each rate set forth in the schedule of rates.

(e) The final invoice submitted under this contract shall include a certification that the Contractor has not experienced a decrease in rates of pay for labor or that he has given notice of all such decreases in compliance with (b) above.

(End of clause)

252.247-7003 Revision of prices.

As prescribed at 247.270-9(c), insert the following clause:

REVISION OF PRICES (AUG 1964)

(a) *General.* The prices fixed in this contract are based on wages and working conditions established by collective bargaining agreements and on other conditions in effect on the date of this contract. Such prices may be increased or decreased in accordance with this clause.

(b) *Demand for Negotiation.* At any time, and from time to time, subject to the limitations specified in this clause, either the Government or the Contractor may deliver to the other a written demand that the parties negotiate to revise the prices under this contract. No such demand shall be made before ninety (90) days after the date of this contract, and thereafter neither party shall make a demand having an effective date within ninety (90) days of the effective date of any prior demand; *Provided*, however, that this limitation shall not be applicable in the event that during any ninety (90) day period there is a "wage adjustment" as hereinafter defined. The term "wage adjustment," as used in this clause, means a change in the wages, salaries, or other terms or conditions of employment which shall substantially affect the cost of performing this contract and which shall be generally applicable to the port where work under this contract is performed and shall be applicable to operations by the Contractor on non-Government work as well as to work under this contract. Each demand shall specify a date (identical with or subsequent to the date of the delivery of the demand) as to which the revised prices shall be effected as to services performed thereon and thereafter. This date is hereinafter referred to as the "effective date of the price revision." Any demand under this clause, if made by the Contractor shall state briefly the ground or grounds therefor and shall be accompanied by the statements and data referred to in paragraph (c) of this clause. If the demand is made by the Government, such statements and data will be furnished by the Contractor within thirty (30) days of the delivery of the demand.

(c) *Submission of Data.* At the time or each of the times specified or provided for in paragraph (b) of this clause, the Contractor shall submit:

(i) A new estimate and breakdown of the unit cost and the proposed prices for the services to be performed under the contract after the effective date of the price revision itemized in connection with the original negotiations of the contract;

(ii) An explanation of the difference between the original (or last preceding) estimate and the new estimate;

(iii) Such relevant operating data, cost records, overhead absorption reports, and accounting statements as may be of assistance in determining the accuracy and reliability of the new estimate;

(iv) A statement of the experienced costs of performance hereunder to the extent that they are available at the time or times of the negotiation of the revision of prices hereunder; and

(v) Any other relevant data usually furnished in the case of negotiations of prices under a new contract.

The Government may make such examination of the Contractor's accounts, records and books as the Contracting Officer may require and may make such audit thereof as the Contracting Officer may deem necessary.

(d) *Negotiations.*

(1) Upon the filing of the statements and data required by (c) of this clause, the Contractor and the Contracting Officer will negotiate promptly in good faith to agree upon prices for services to be rendered on and after the effective date of the price revision. Negotiations for price revisions under this clause shall be conducted on the same basis, employing the same types of data, including without limitation, comparative prices, comparative costs, and trends thereof, as in the negotiation of prices under a new contract; *Provided*, however, that if the prices in the contract were arrived at as a result of competitive negotiation, the contract prices shall not be revised upward except upon the basis of, and as justified by changes in conditions occurring after the contract was entered into.

(2) After each negotiation the agreement reached will be evidenced by a supplemental agreement stating the revised price to be effective with respect to services rendered on and after the effective date of the price revision (or such other later date as the parties may fix in such supplemental agreement).

(e) *Disagreements.* If, within thirty (30) days after the date on which the statements and data are required pursuant to paragraph (b) of this clause to be filed (or such further period as may be fixed by written agreement), the Contracting Officer and the Contractor fail to agree to revised prices, the failure to agree shall be disposed of in accordance with the "Disputes" clause of this contract, and the prices so fixed shall remain in effect for the balance of the contract notwithstanding any other provision of this clause.

(f) *Payments.* Until new prices shall become effective in accordance with this clause, the prices in force at the effective date of the price revision shall be paid upon all services performed, subject to appropriate later revisions made pursuant to (d) or (e) of this clause.

(g) *Retroactive Changes in Wages or Working Conditions.* In the event of a retroactive wage adjustment the Contractor or the Contracting Officer may request an adjustment in the prices fixed in this contract, and such adjustment will be made to the extent equitable: *Provided*, however, that the prices applicable to services performed subsequent to the date of the request for price adjustment shall not be adjusted under this paragraph, it being the intent that any price adjustment under this paragraph shall cover the period prior to such request. Such request by the Contractor shall be made within thirty (30) days of such retroactive wage adjustment and shall be supported by:

(i) An estimate of the changes in cost occasioned by the retroactive wage adjustment;

(ii) Completed information upon which such estimate is based; and

(iii) A certified copy of the collective bargaining agreement, arbitration award, or other document evidencing the retroactive wage adjustment.

Subject to the foregoing limitation as to the time of making a request hereunder, completion or termination of this contract shall not affect or impair the Contractor's right under this paragraph. Such adjustment shall be by mutual agreement between the Contracting Officer and the Contractor. The adjusted prices, and the manner of making adjustments with respect to services theretofore paid for, shall be incorporated in an amendment to this contract to be executed by the Contractor and the Contracting Officer. In case of disagreement concerning any question of fact including whether any adjustment should be made, or the amount of such adjustment, such disagreement will be resolved in accordance with the "Disputes" clause of this contract. The Contractor shall give written notice to the Contracting Officer of any request by or on behalf of the employees of the Contractor which may result in a retroactive wage adjustment. Such notice shall be given within twenty (20) days after such request, or if request has occurred prior to execution of this contract, at the time of execution of this contract.

(End of clause)

252.247-7004 Changes.

As prescribed at 247.270-9(d), insert the following clause:

CHANGES (AUG 1964)

The Contracting Officer may, at any time by written order, and without notice to the sureties, make changes within the general scope of this contract. If any such change causes an increase or decrease in the cost of the performance of any part of the work under this contract, an equitable adjustment shall be made in the contract price or in the applicable schedule of rates and the contract shall be modified in writing accordingly. Any claims by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: *Provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

252.247-7005 Termination.

As prescribed at 247.270-9(e), insert the following clause:

TERMINATION (SEP 1978)

(a) This contract may be terminated at any time by either party hereto upon sixty (60) days, or such number of days as may be otherwise provided in the Schedule, notice in writing to the other. Termination under this clause shall not affect, or relieve any part of, any obligation or liability that may have accrued prior to such termination.

(b) Upon termination of the contract under (a) above, or as provided in the "Default" clause of this contract, the Contractor shall be paid any sum due the Contractor for services performed under this contract to the date of such termination, and in the event of partial termination shall be paid in accordance with the terms of this contract for any services furnished under the portion of the contract that is not terminated; *Provided*, however, any such payments shall be without prejudice to any claim which the Government may have against the Contractor under the "Default" clause of this contract or otherwise, and the

Government shall have the right to offset any such claims against such payment.

(End of clause)

252.247-7006 Indefinite quantities—fixed charges.

As prescribed at 247.270-9(f), insert the following clause:

INDEFINITE QUANTITIES—FIXED CHARGES (AUG 1964)

The amount of work and services which the Contractor may be ordered to furnish and the Government to accept hereunder, shall be the amount which shall from time to time be ordered hereunder by the Contracting Officer. In any event, however, the Government is obligated to compensate the Contractor the monthly lump sum specified in Schedule entitled "Fixed Charges," for each month or portion thereof the contract remains in effect.

(End of clause)

252.247-7007 Indefinite quantities—no fixed charges.

As prescribed at 247.270-9(g), insert the following clause:

INDEFINITE QUANTITIES—NO FIXED CHARGES (AUG 1964)

The amount of work and services which the Contractor may be ordered to furnish and the Government to accept hereunder, shall be the amount which shall from time to time be ordered hereunder by the Contracting Officer. In any event, however, the Government shall order, during the term of this contract, work or services having an aggregate value at the prices listed in the schedules made a part hereof of not less than one hundred dollars ($100.00).

(End of clause)

252.247-7008 Employees of contractor.

As prescribed at 247.270-9(h), insert the following clause:

EMPLOYEES OF CONTRACTOR (AUG 1964)

All employees of the Contractor employed in performance of work under this contract shall be employees of the Contractor at all times and not of the Government. The Contractor shall comply with the Social Security Act, the Longshoremen's and Harbor Workers' Compensation Act, and such Workmen's Compensation Laws and Unemployment Insurance Laws of the state where the work is performed as shall be applicable to work performed hereunder and the Contractor shall comply with all other relevan legislation, state and Federal.

(End of clause)

252.247-7009 Removal of contractor's employees.

As prescribed at 247.270-9(h), insert the following clause:

REMOVAL OF CONTRACTOR'S EMPLOYEES (OCT 1965)

The Contractor agrees to utilize only experienced, responsible and capable people in the performance of the work. The Contracting Officer may require that the Contractor remove from the Government iob employees who endanger persons or property, or whose continued employment under this contract is inconsistent with the interests of military security.

(End of clause)

252.247-7010 Liability and insurance.

As prescribed at 247.270-9(h), insert the following clause:

LIABILITY AND INSURANCE (JAN 1977

(a) The Contractor shall be:

(i) Liable to the Government for loss or damage to property, real and personal owned by the Government or for which the Government is liable;

(ii) Responsible for, and hold the Government harmless from, loss of or damage to property not included in (i) above; and

(iii) Responsible for, and hold the Government harmless from, bodily injury and death of persons, occasioned either in whole or in part by the negligence or fault of the Contractor, his officers, agents, or employees in the performance of work under this contract. For the purpose of this clause, all cargo loaded or unloaded under this contract is agreed to be property owned by the Government or property for which the Government is liable. The amount of the loss or damage as determined by the Contracting Officer will be withheld from payments otherwise due the Contractor. Determination of liability and responsibility by the Contracting Officer will constitute questions of fact within the meaning of the "Disputes" clause of this contract. The general liability and responsibility of the Contractor under this clause are subject only to the following specific limitations.

(b) The Contractor shall not be responsible to the Government for and does not agree to hold the Government harmless from loss or damage to property or bodily injury to or death of persons if:

(i) The unseaworthiness of the vessel or failure or defect of the gear or equipment furnished by the Government contributed jointly with the fault or negligence of the Contractor in causing such damage, injury or death, and the Contractor, his officers, agents, and employees, by the exercise of due diligence, could not have discovered such unseaworthiness or defect of gear or equipment, or through the exercise of due diligence could not otherwise have avoided such damage, injury, or death; or

(ii) The damage, injury or death resulted solely from an act or omission of the Government or its employees or resulted solely from proper compliance by officers, agents, or employees of the Contractor with specific directions of the Contracting Officer.

(c) The Contractor shall at his own expense procure and maintain insurance during the term of this contract, as follows:

(i) Standard Workmen's Compensation and Employer's Liability Insurance and Longshoremen's and Harbor Workers' Compensation Insurance, or such of these as may be proper under applicable state or Federal statutes. The Contractor may however, be self-insurer against the risk of this subparagraph (i), if he has obtained the prior approval of the Contracting Officer. This approval will be given upon receipt of satisfactory evidence that the Contractor has qualified as such self-insurer under applicable provision of law.

(ii) Bodily Injury Liability Insurance in an amount of not less than $300,000 on account of any one occurrence.

(iii) Property Damage Liability Insurance (which shall include any and all property, whether or not in the care, custody, or control of the Contractor) in an amount of not less than $300,000 on account of any one occurrence.

(d) All policies of insurance required under the terms of this contract shall, by appropriate endorsement or otherwise, provide that no cancellation thereof shall be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof has been given to the Contracting Officer.

(e) Satisfactory evidence of the required insurance endorsed as required in (d) above, shall be filed with the Contracting Officer prior to the performance of any work under this contract.

(f) The Contractor shall, at his own cost and expense, defend any suits, demands, claims, or actions, in which the United States might be named as a codefendant of the Contractor, arising out of or as a result of the Contractor's performance of work under this contract, whether or not such suit, demand, claim, or action arose out of or was the result of the Contractor's negligence. This shall not prejudice the right of the Government to appear in such suit, participate in defense, and take such actions as may be necessary to protect the interests of the United States.

(g) It is expressly agreed that the provisions contained in (c) through (f) of this clause shall not in any manner limit the liability or extent of liability of the Contractor as provided in (a) and (b) of this clause.

(h) In the event that the Contractor is indemnified, reimbursed, or relieved for any loss or damage to Government property, he shall equitably reimburse the Government. The Contractor shall do nothing to prevent the Government's right to recover against third parties for any such loss, or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(End of clause)

252.247-7100 Evaluation of bids.

As prescribed at 247.271-4(a)(1), insert the following provision:

EVALUATION OF BIDS (JUN 1987)

(a) Bids will be evaluated on the basis of total aggregate price of all items within an area of performance under a given schedule. A bidder must bid on all items within a specified area of performance for a given schedule. (If there is to be no charge for an item, an entry such as "No Charge", or the letters "N/C" or "O", must be made in the unit price column of the schedule.) Failure to do so shall be cause for rejection of the bid for that area of performance of that schedule. Any bid which stipulates minimum charges or graduated prices for any or all items shall be rejected for that area of performance within the schedule.

(b) In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $250 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate to the Government, including such administrative costs.

(c) When drayage is necessary for the accomplishment of any item within the bid schedule, costs for bridge or ferry tolls, road use charges or similar expense shall be included in the unit price.

(d) Unless otherwise provided herein, prices must be stated in amounts per hundred pounds on gross or net weights, whichever is applicable. All charges shall be subject to and payable on the basis of a minimum weight of hundred pounds net or gross, whichever is applicable.

(End of provision)

ALTERNATE I (JUN 1987)

As prescribed at 247.271-4(a)(1), insert the following paragraph:

(e) Notwithstanding (a) above, when "additional services" are added to any schedule, such "additional services" items will not be considered in the evaluation of bids.

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38184, Sept. 29, 1988]

252.247-7101 Award.

As prescribed at 247.271-4(a)(2), insert the following provision:

AWARD (APR 1977)

Award shall be made to the qualified low bidder by area under each of the specified schedules to the extent of his stated guaranteed daily capability as provided herein and the clause entitled "Estimated Quantities." The Government reserves the right to make an award of two or more areas to a single bidder if such award will result in an overall lower estimated cost to the Government. The Government also reserves the right to award additional contracts, as a result of this solicitation, to the extent necessary to meet its estimated maximum daily requirements.

(End of provision)

252.247-7102 [Reserved]

252.247-7103 Scope of contract.

As prescribed at 247.271-4(b)(1), insert the following clause:

Scope of Contract (Jun 1987)

The Packing and Containerization Contractor, hereafter referred to as Contractor, shall furnish services and materials for the preparation of personal property (including servicing of appliances) for movement or storage, drayage and related services. Unless otherwise indicated in the Schedule, the Contractor shall (i) furnish all materials except Government-owned containers (Federal Specification PPP-B-580), all equipment, plant and labor; and (ii) perform all work in accomplishing containerization of personal property for overseas or domestic movement or storage; stenciling; cooperage; drayage of personal property in connection with other services; decontainerization of inbound shipments of personal property; and the handling of shipments into and out of the Contractor's facility. Excluded from the scope of this contract is the furnishing of like services or materials which are provided incident to complete movement of personal property when purchased by the Through Government Bill of Lading or other method/mode of shipment or property to be moved under the Do-It-Yourself moving program or otherwise moved by the owner.

(End of clause)

[53 FR 38184, Sept. 29, 1988]

252.247-7104 Period of contract.

As prescribed at 247.271-4(b)(2), insert the following clause:

Period of Contract (Jun 1987)

This contract shall begin 1 January 19___ and shall end 31 December 19___, both dates inclusive, *Provided*, however, that any work ordered before, and not completed by the expiration of this contract period shall be governed by the terms of this contract. New orders requiring commencement of performance more than fifteen (15) days after the expiration date shall not be placed under this contract. Orders required for the completion of services (for shipments in the Contractor's possession) may be placed against this contract for one hundred eighty (180) days past the end date.

(End of clause)

[53 FR 38184, Sept. 29, 1988]

252.247-7105 Ordering limitation.

As prescribed at 247.271-4(b)(4), insert the following clause:

ORDERING LIMITATION (MAY 1970)

Ordering for items of supplies or services required will be placed under this contract by the Government and performed by the Contractor holding the initially awarded contract, to the extent of his guaranteed maximum daily capability. However, the Contractor may accept an additional quantity in excess of his capability to accommodate a single order. Orders for additional requirements will be placed with and performed by the next higher Contractor to the extent of his guaranteed maximum daily capability in a like manner. This procedure will be repeated until the Government's total daily requirement is fulfilled. In the event this procedure does not fulfill the Government's total daily requirement, additional orders may be offered under the contract to Contractors without regard to their guaranteed maximum daily capability.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated at 53 FR 38184, Sept. 29, 1988]

252.247-7106 Contract areas of performance.

As prescribed at 247.271-4(b)(5), insert the following clause:

CONTRACT AREAS OF PERFORMANCE (MAY 1970)

(a) All areas of performance described in (b) below will be considered to include the Contractor's facility regardless of geographical location.

(b) Service shall be performed within the following defined areas of performance which include terminals identified therein: (Define each area of performance as required; see DoD FAR Supplement 247.271-2(b).

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated at 53 FR 38184, Sept. 29, 1988]

252.247-7107 Requirements.

As prescribed at 247.271-4(b)(6), insert the following paragraph:

REQUIREMENTS (APR 1984)

(f) Orders issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order; and the rights and obligations of the Contractor and the Government respecting those orders shall be governed by the terms of this contract to the same extent as if completed during the effective period of this contract.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated at 53 FR 38184, Sept. 29, 1988]

252.247-7108 Facilities.

As prescribed at 247.271-4(b)(7), insert the following clause:

FACILITIES (DEC 1982)

(a) As the minimum standard for qualifications of a Contractor's warehouse, it must have either (i) an acceptable automatic sprinkler system; or (ii) a supervised fire detection and reporting system. Installed fire protective systems must be accredited by the cognizant fire insurance rating organization for insurance rate credit. Additionally, the facility will be protected by an adequate water supply for fire fighting and a fire department which is responsive 24 hours a day. Statements from the cognizant fire insurance rating organization, municipal fire department, or local authority, having jurisdiction, will be used as a basis for determining the sufficiency or adequacy of a fire fighting water supply and the responsiveness of a fire department to protect a facility.

(b) The following information shall be furnished by the Contractor upon receipt of award:

Evidence of the following kinds and minimum amounts of insurance covering work herein to be performed by the Contractor. The Contractor shall maintain at least the minimum coverage stated below * throughout the contract period. Each policy shall contain an indorsement that cancellation or material change in the policy shall not be effective until after a 30-day written notice is furnished to the Contracting Officer.

(1) Workmen's Compensation Insurance $ * ______.

(2) Comprehensive General Liability Insurance $ * ______.

(3) Automobile Liability Insurance $ * ______.

(End of clause)

* The insurance coverage specified in FAR 28.307-2 is the minimum insurance required. Additional coverage and higher limits may be required by the Contracting Officer.

[51 FR 46335, Dec. 23, 1986, redesignated at 53 FR 33184, Sept. 29, 1988]

252.247-7109 Demurrage.

As prescribed at 247.271-4(b)(8), insert the following clause:

DEMURRAGE (MAY 1970)

The Contractor shall be liable for all demurrage, detention, or other charges accruing as a result of his failure to load or unload trucks, freight cars, freight terminals, vessel piers, or warehouses within the free time allowed under applicable rules and tariffs.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated and amended at 53 FR 38184, Sept. 29, 1988]

252.247-7110 Liability.

As prescribed at 247.271-4(b)(9), insert the following clause:

LIABILITY (JUL 1980)

(a) "Article" means any shipping piece or package and its contents.

(b) If notified within one (1) year after delivery that the owner has discovered loss or damage to his property, the Contractor agrees to indemnify the owner for loss of or damage to the owner's property which arises from any cause while it is in the Contractor's possession as follows:

(i) *Non-negligent damage.* The Contractor shall indemnify owners for any loss of or damage to their property which results from any cause, other than the Contractor's negligence, at a rate not to exceed sixty cents ($.60) per pound per article.

(ii) *Negligent damage.* When loss or damage is caused by the negligence of the Contractor, he shall be liable for the full cost of satisfactory repair or for the current replacement value of the article. The Contractor shall make prompt payment to the owner of the property for any loss or damage for which the Contractor is liable.

(c) In the absence of evidence or supporting documentation which places liability on a carrier or another Contractor, the destination Contractor will be presumed to be liable for the loss or damage of which it is timely notified.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated and amended at 53 FR 38184, Sept. 29, 1988]

252.247-7111 Erroneous shipments.

As prescribed at 247.271-4(b)(10), insert the following clause:

ERRONEOUS SHIPMENTS (JUN 1987)

(a) It shall be the responsibility of the Contractor at his expense to have articles of personal property which he inadvertently packed with goods of other than the rightful owner forwarded to the rightful owner by the quickest means of transportation, as selected by the Contracting Officer.

(b) Further, it shall be the responsibility of the Contractor to insure that all shipments have been stenciled correctly. When a shipment is forwarded to an incorrect address due to incorrect stenciling by the Contractor or his personnel, the shipment shall be returned with the least possible delay to its rightful owner by a mode of transportation selected by the Contracting Officer. The Contractor shall be liable for all costs incurred including charges for preparation, drayage and transportation in excess of what it would have cost the Government had the entire lot been shipped at the same time.

(c) It shall be the responsibility of the Contractor to deliver to the designated air or surface terminal all pieces of a shipment, in one lot, at the same time. Pieces of one lot not included in delivery and remaining at Contractor's facility after the departure of the original shipment shall be forwarded to the owner with the least possible delay by a mode of transportation selected by the Contracting Officer or his designated rep sentative. The Contractor shall be liable all additional transportation costs incur in excess of what it would have cost Government had the entire lot be shipped at the same time.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesigna and amended at 53 FR 38185, Sept. 29, 19

252.247-7112 Subcontracting.

As prescribed at 247.271-4(b)(1 insert the following clause:

SUBCONTRACTING (MAY 1970)

The Contractor shall not subcontr without the prior written approval of t Contracting Officer. The facilities of approved Subcontractor shall meet the m imum standards required by this contract

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesigna and amended at 53 FR 38185, Sept. 29, 19

252.247-7113 Drayage.

As prescribed at 247.271-4(b)(1 insert the following clause:

DRAYAGE (APR 1977)

(a) Drayage under the Schedules of Ite in this contract shall include all outbou or inbound hauling of loose articles, co tainerized shipments and empty Gove ment containers within the area of perfor ance as defined in the clause entitled, "Co tract Areas of Performance." Each area cludes the Contractor's facility, stora warehouse other than Contractor's fac. frequently used air and surface transpor tion terminals, military installation sh ping offices and ocean or river termina piers. The price of each item of service cludes drayage within the area award unless otherwise provided in the item.

(b) Repositioning of empty Governme containers within the contractual area performance, shall be as directed by Contracting Officer or his designated rep sentative at no additional cost to the Go ernment.

(End of clause)

[51 FR 46335, Dec. 23, 1986, redesignated 53 FR 38184, Sept. 29, 1988]

252.247-7114 Additional services.

As prescribed at 247.271-4(b)(1 insert the following clause:

ADDITIONAL SERVICES (JUN 1987)

Additional services not included in the schedule, but required for satisfactory completion of the services ordered under this contract shall be provided at a rate comparable to the rate for like services as contained in tenders on file with the ICC, state regulatory bodies, or MTMC, in effect at time of order.

(End of clause)

[53 FR 38185, Sept. 29, 1988]

252.247-7200 **[Reserved]**

252.247-7201 **Returnable gas cylinders.**

As prescribed at 247.305-70, insert the following clause:

RETURNABLE GAS CYLINDERS (JUN 1989)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of ______ dollars ($______) per cylinder per day, regardless of type or capacity.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after delivery to the f.o.b. point specified in this contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

(i) Oxygen cylinders of 100-110 cubic foot capacity $______;

(ii) Oxygen cylinders of 200-220 cubic foot capacity $______;

(iii) Acetylene cylinders of 100-150 cubic foot capacity $______;and

(iv) Acetylene cylinders of 230-300 cubic foot capacity $______.

(d) Cylinders lost, or damaged beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within ______ (insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) day loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

(End of clause)

[51 FR 46335, Dec. 23, 1986. Redesignated and amended at 54 FR 26208, June 22, 1989]

252.247-7202 **Representation of extent of transportation by sea.**

As prescribed in 247.574(a), insert the following provision:

REPRESENTATION OF EXTENT OF TRANSPORTATION OF SUPPLIES BY SEA (JAN 1990)

The clause at 252.247-7203, Transportation of Supplies by Sea, will be included in any contract resulting from this solicitation. The Offeror is required to indicate whether transportation by sea is anticipated under the resultant contract by checking the appropriate blank as follows:

______ The Offeror represents that it does anticipate that supplies, as defined in the clause at 252.247-7203, Transportation of Supplies by Sea, will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

______ The Offeror represents that it does not anticipate that supplies, as defined in the clause at 252.247-7203, Transportation of Supplies by Sea, will be transported by sea in the performance of any contract or subcontract resulting from this solicitation. If the Offeror represents that it will not use ocean transportation, the clause at 252.247-7204 will also be inserted in the resulting contract.

(End of representation)

(End of provision)

[54 FR 16120, Apr. 21, 1989' as amended at 54 FR 53621, Dec. 29, 1989]

252.247-7203 Transportation of supplies by sea.

As prescribed in 247.574(b), insert the following clause:

TRANSPORTATION OF SUPPLIES BY SEA (APR 1990)

(a) As used in this clause:

(1) "Armed services" means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

(2) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the contractor or any subcontractor.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by the armed services, or owned by the armed services, at the time of transportation by sea. It includes (but is not limited to) public works, buildings and facilities, ships, floating equipment and vessels of every character, type, and description, together with parts, subassemblies, accessories, and equipment; machine tools, material, equipment, and stores of all kinds; end items, construction materials and the components of the foregoing. An item is clearly identifiable for eventual use by the armed services if, for example, the contract documentation contains a reference to a DoD contract number, or a Military Specification, or a military destination.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ United States-flag vessels, and no others, in the transportation by sea of any supplies to be furnished in the performance of its contractual obligations.

(c) If the Contractor or a subcontractor believes that (1) U.S.-flag vessels are not available for timely shipment; (2) the freight charges are excessive or unreasonable; or (3) freight charges are higher than charges to private persons for transportation of like goods, the Prime Contractor, including subcontractors through the Prime Contractor, may request from the Contracting Officer, in accordance with paragraph (d) below, authorization to ship in foreign flag vessels or designation of available U.S. flag vessels. If the Prime Contractor's request to ship supplies in foreign-flag vessels whether on its own account or on account of a subcontractor, is granted in writing by the Contracting Officer, the supplies may be shipped on foreign-flag vessels in accordance with the approval. The Contracting Officer may condition approval to ship on a foreign-flag vessel on an equitable adjustment of the contract.

(d) The request for use of other than U.S. flag vessels because of matters concerning freight charges or matters concerning vessel availability must be submitted in writing by or through the Prime Contractor to the Contracting Officer at least forty-five (45) days prior to the sailing date for the shipper to meet its delivery schedules. Requests submitted after such date(s) will be processed as expeditiously as possible, but the failure of the appropriate official to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. The request shall contain at a minimum:

(1) Type, weight, and cube of cargo.

(2) Required shipping date.

(3) Special handling and discharge requirements.

(4) Loading and discharge points.

(5) Name of shipper and consignee.

(6) Prime contract number.

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact with at least two (2) U.S. flag carriers contacted by name and telephone number. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(e) The Contractor shall, within thirty (30) days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean-bill-of-lading, which shall contain the following information:

(1) Applicable Government prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars.

(10) Name of the steamship company.

(f) Along with the submission of its final invoice under this contract the Contractor agrees to provide a representation that to the best of its knowledge and belief:

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only United States-flag vessels were used for all ocean shipments under the contract. Legible copies of rated on-board ocean-bills-of-lading or similar shipping documents have been submitted with the applicable invoices to the payment office, to the Contracting Officer and to the Maritime Administration in accordance with paragraphs (e) and (f) of this clause;

(3) Ocean transportation was used, and to the extent any non-U.S.-flag vessels were used, the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. These shipments were as follows:

Item description	Contract line items quantity
Total	

(g) If the final invoice does not include the required representation, it will be rejected and returned to the Contractor as an improper invoice for the purposes of the clause of the contract entitled "Prompt Payment". In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) The Contractor shall include this clause, including this paragraph (h), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder. Subcontractor bills of lading shall be submitted through the prime contractor to the parties and with the information specified in paragraph (e) of this clause.

(End of clause)

[54 FR 16121, Apr. 21, 1989, as amended at 54 FR 53621, Dec. 29, 1989; 55 FR 19082, May 8, 1990]

252.247-7204 Notification of transportation of supplies by sea.

As prescribed in 247.574(c), insert the following clause:

Notification of Transportation of Supplies by SEA (Jan 1990)

(a) The Contractor has indicated by the response to the solicitation provision at 252.247-7202, Representation of Extent of Transportation of Supplies by Sea, that it did not anticipate transporting by sea any supplies as defined in the clause at 252.247-7203, Transportation of Supplies by Sea, in the performance of this contract. If, however, after the award of this contract, the Contractor should learn that supplies will be transported by sea, the Contractor shall notify the Contracting Officer of the fact that transportation by sea will be used and hereby agrees to comply with all the terms and conditions of the clause at 252.247-7203, entitled "Transportation of Supplies by Sea", contained in this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder.

(End of clause)

[54 FR 53621, Dec. 29, 1989]

252.249-7000 Special termination costs.

In accordance with 249.7003(a), insert the following clause:

SPECIAL TERMINATION COSTS (APR 1984)

(a) Notwithstanding the Limitation of Cost/Limitation of Funds clause of this contract, the Contractor shall not include in its estimate of costs incurred or to be incurred, any amount for special termination costs, as herein defined, to which the Contractor may be entitled in the event this contract is terminated for the convenience of the Government. The Contractor agrees to perform this contract in such a manner that the Contractor's claim for such special termination costs will not exceed $_____. The Government shall have no obligation to pay the Contractor any amount for the special termination costs in excess of this amount. Special termination costs are defined as costs only in the following categories:

(1) severance pay as provided in FAR 31.205-6(g);

(2) reasonable costs continuing after termination as provided in FAR 31.205-42(b);

(3) settlement of expenses as provided in FAR 31.205-42(g);

(4) costs of return of field service personnel from sites as provided in FAR 31.205-35 and FAR 31.205-46(c); and

(5) costs in categories (1), (2), (3), and (4) above to which subcontractors may be entitled in the event of termination.

(b) In the event of termination for the convenience of the Government, this clause shall not be construed as affecting the allowability of special termination costs in any manner other than limiting the maximum amount payable therefor by the Government.

(c) This clause shall remain in full force and effect until this contract is fully funded.

(End of clause)

252.251-7000 Ordering from Government supply sources.

As prescribed at 251.107, insert the following clause:

ORDERING FROM GOVERNMENT SUPPLY SOURCES (APR 1984)

(a) Contractors placing orders under Federal Supply Schedules or Personal Property Rehabilitation Price Schedules shall follow the terms of the applicable schedule and authorization and include with each order:

(1) A copy of the authorization (unless a copy was previously furnished to the Federal Supply Schedule or Personal Property Rehabilitation Price Schedule Contractor).

(2) The following statement:

This order is placed under written authorization from ______ dated ______. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract or Personal Property Rehabilitation Price Schedule contract, the latter will govern.

(3) The complete address(es) to which the Contractor's mail, freight, and billing documents are to be directed.

(b) If a Federal Supply Schedule Contractor refuses to honor an order placed by a Government Contractor under an agency authorization, the Contractor shall report the circumstances to the General Services Administration, FFN, Washington, DC 20406, with a copy to the authorizing office.

(c) Contractors placing orders under non-mandatory schedule contracts and requirements contracts issued by GSA, Office of Information Resources Management, for automated data processing equipment, software and maintenance, communications equipment and supplies, and teleprocessing services, shall follow the terms of the applicable contract and the procedures in (a) (1), (2), and (3) above.

(d) Contractors placing orders for Government stock shall—

(1) Comply with the requirements o
Contracting Officer's authorization, (
FEDSTRIP or MILSTRIP procedure
appropriate;

(2) Use only the GSA Form 1948-A, R
Services Shopping Plate, when ord
from GSA Self-Service Stores;

(3) Order only those items required in
performance of their contracts; and

(4) Pay bills from Government su
sources promptly upon receipt of billing

(e) Authorizations for subcontractor
utilize Government supply sources sha
requested only by the prime Contractor
shall not be granted without approval o
prime Contractor.

(End of clause)

252.251-7001 Use of interagency m pool vehicles and related services.

As prescribed in 251.205, insert
following clause:

USE OF INTERAGENCY MOTOR P
VEHICLES AND RELATED SERVI
(APR 1984)

(a) Authorized Contractors shall sub
requests for interagency motor pool vehi
and related services in writing to the ap
priate GSA Regional Customer Ser
Bureau, Attention: Motor Equipment Ac
ty; except that requests for more than
vehicles shall be submitted to General S
ices Administration, FTM, Washington,
20406, and not to the regions. Each req
shall include the following:

(1) Two copies of the agency autho
tion to obtain vehicles and related serv
from GSA.

(2) The number of vehicles and rel
services required and period of use.

(3) A list of the Contractor's emplo
who are authorized to request vehicles
related services.

(4) A listing of the make, model, and s
numbers of Contractor-owned or le
equipment authorized to be serviced.

(5) Billing instructions and address.

(b) Contractors requesting unusual qu
tities of vehicles should do so as far in
vance as possible to facilitate availability

(c) Contractors authorized to use in
agency motor pool vehicles and related s
ices shall comply with the requirement
41 CFR 101-39 and the operator's pa
furnished with each vehicle.

(d) Contractors shall establish and
force suitable penalties for their emplo
who use or authorize the use of Gov
ment vehicles for other than performa
of Government contracts.

(e) The Contractor shall assume, with
the right of reimbursement from the G
ernment, the cost or expense of any us

motor pool vehicles and services not related to the performance of the contract.

(f) Authorizations for subcontractors to utilize interagency motor pool vehicles and related services shall be requested only by the prime Contractor and shall not be granted without the approval of the prime Contractor.

(End of clause)

252.270-7000 Automatic data processing clauses—general.

252.270-7001 Warranty exclusion and limitation of damages.

As prescribed at 270.310(a), insert the following clause:

WARRANTY EXCLUSION AND LIMITATION OF DAMAGES (FEB 1983)

Except as expressly set forth in writing in this agreement, or except as provided in the Contractor Representation clause, if applicable, and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, Section 2-715, in effect in the District of Columbia as of January 1, 1973; i.e., Consequential damages resulting from the seller's breach include:

(a) Any loss resulting from general or particular requirements and need of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) Injury to person or property proximately resulting from any breach of warranty.

(End of clause)

252.270-7002 Contractor representation.

As prescribed at 270.310(b), insert the following clause:

CONTRACTOR REPRESENTATION (APR 1984)

Unless the Contractor expressly states otherwise in his proposal, where functional requirements are expressly stated as part of the requirements of this solicitation, the Contractor, by responding, represents that in its opinion the system/item proposed is capable of meeting those requirements. However, once the system/item is accepted by the Government, contractor responsibility under this clause ceases. In the event of any inconsistency between the detailed specification and the functional specification contained in the solicitation, the former will control.

(End of clause)

252.270-7003 Fixed price options.

As prescribed at 270.310(c), insert the following clause:

(The data required for the "fill-ins" should be suitably highlighted, and inapplicable bracketed portions should be deleted).

FIXED PRICE OPTIONS (SEP 1987)

(a) This solicitation is being conducted on the basis that known requirements extend beyond the initial contract period (and exceed the basic quantity*) to be awarded, but due to the unavailability of funds, including statutory limitations on obligations of funds, the options cannot be exercised at the time of award of the initial contract. There is a reasonable certainty that funds will be available thereafter to permit exercise of the options. Because realistic competition for the option periods (and quantity*) is impracticable once the initial contract is awarded, it is in best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in".

(b) In order to safeguard the integrity of the Government's evaluation and because the Government is required to acquire ADPE and related items on the basis of fulfilling the systems-life requirement at the lowest overall cost, price and other factors considered, requirements for optional periods (and additional quantities*) as well as initial requirements will be evaluated for award on a fixed price basis. Since the systems or items to be acquired under the solicitation have an expected life of ** months (hereafter referred to as "system life" or "item life", as appropriate), and since lowest system (item) life costs are synonymous with lowest overall costs, the contract resulting from a solicitation will contain options at fixed prices for renewals for subsequent periods based on fiscal years, or other authorized twelve-month periods throughout the projected system (item) life (and options at fixed prices for all stated optional quantities of supplies or services not included in the initial requirements*). Despite the foregoing, offerors are reminded that although the evaluation that will lead to contract award will be based on system (item) life costs, the award of the initial contract, as well as the exercise of the options, is dependent not only on the continued existence of the requirement and the availability of funds but also on an affirmative determination that each exercise of an option is in the best interest of the Government.

(c) Options included in offers submitted in response to this solicitation will be evaluated as follows:

(1) *Firm fixed prices.* To be considered acceptable under the solicitation, offerors must offer (i) fixed prices for the initial contract period for the initial systems or items being acquired, (ii) fixed prices or prices which can be finitely determined for each separate option renewal period, which prices must remain in effect throughout that period, and (iii) fixed prices or prices which can be finitely determined for all required option quantities.*

(2) *Evaluation of prices.* Offers will be evaluated for purposes of award by adding the total prices of all optional periods (and all stated optional quantities*) to the total price for the initial contract period covering the initial system or items. These prices will be adjusted by the appropriate discount factors shown in *** of the solicitation document. Evaluation of option prices will not obligate the Government to exercise the options. Offers which do not include fixed or determinable system (item) life prices cannot be evaluated for the total systems-life requirement and will be rejected. Offers which meet the mandatory requirements will be evaluated on the basis of lowest overall cost to the Government, price and other factors considered. Evaluated optional features, if any, will also be evaluated.

(3) *Separate charges.* Separate charges, in any form, are not solicited. Offers containing any charges for failure to exercise any option will be rejected.

(d) Selection of an offer shall be made on the basis of lowest overall cost, price and other factors considered, to the Government provided that the contract price reasonably represents the value of bona fide fiscal year requirements, rather than representing, to any extent, a portion of any other fiscal year's requirements, unless otherwise authorized by law. This determination with respect to the contract price shall be made after consideration of such factors as commercial catalog prices for short-term leases, offeror system startup expenses, multiyear price protection, assured system-life availability of equipment, software, and vendor support. If a determination is made that an offer does not meet these criteria, that offer cannot be accepted for award.

(e) Award of an initial contract will not obligate the Government to exercise any contractual option. Prior to exercising any option, the Government will make a determination that (i) funds are available, (ii) the requirement covered by the option fulfills an existing need of the Government, and (iii) the exercise of the option is the most advantageous method of fulfilling the Government's need, price and other factors considered.

(f) Failure to exercise an option shall not obligate the Government to pay any charges other than the contract price including exercised options.

(End of clause)

* Delete when inapplicable.

** Insert the specific number of months applicable to the solicitation.

*** Insert location in the solicitation where appropriate discount factors and the contemplated payment schedule are specified.

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38176, Sept. 29, 1988]

252.270-7004 Option to extend the term of the contract.

As prescribed at 270.310(d), insert the following clause:

OPTION TO EXTEND THE TERM OF THE CONTRACT (SEP 1987)

This contract is renewable at the prices stated elsewhere in the contract, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor by the first day of each fiscal year of the Government or within 30 days after funds for that fiscal year become available, whichever date is the later; or, if the contract is written for a twelve-month period other than the fiscal year, by the expiration date of the contract: *Provided,* that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least * days before the contract is to expire. Such a preliminary notice of intent to renew shall not be deemed to commit the Government to renewals. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed** months.

(End of clause)

* Insert 30 days unless a longer period is appropriate.

** Insert the specific number of months applicable to the solicitation.

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38176, Sept. 29, 1988]

252.270-7005 Option for increased quantities.

As prescribed at 270.310(e), insert the following clause:

OPTION FOR INCREASED QUANTITIES (FEB 1983)

The Government may increase the items called for herein by the quantities stated and at the unit prices specified elsewhere in this contract. The Contracting Officer may exercise this option at any time within the period specified in the contract by giving written notice to the Contractor. Delivery of items added by exercise of this option shall be in accordance with the delivery schedule set forth elsewhere in this contract.

(End of clause)

252.270-7006 Discontinuance repricing.

As prescribed at 270.310(f), insert the following provision:

DISCONTINUANCE REPRICING (APR 1984)

(a) By the incorporation of this solicitation provision, the Government indicates its willingness to incorporate into the resulting contract the clause at 252.270-7007, Discontinuance of Rental and Repricing, which is an alternative to standard termination for convenience procedures in appropriate circumstances.

(b) The following example illustrates the operation of the clause:

- Monthly rental price for the period in which the discontinuance date falls for the discontinued item as stated in the contract. $90
- Monthly rental price for the item effective at the time of initial award of the system contract as stated in the vendor's ADP schedule contract (or the established commercial catalog price at the same time, if lower or if no ADP schedule contract effective). $120
- Months of rental prior to the discontinuance date during the initial or option contract period of performance in which the discontinuance date occurs. $10
- Rental charges earned during the applicable period of performance (10 × $90). $900
- Discontinuance charges to be added at discontinuance date ($120—$90 × 10). $300
- Total rental charges plus discontinuance charges ($900 + $300). $1,200
- Ceiling on total of rental changes and discontinuance repricing charges (12 × $90). $1,080
- Total price during period for the discontinued item ($1,080 ceiling lower than total rental earned plus discontinuance charges). $1,080

(c) Offeror election. The undersigned offeror ______ agrees to, ______ declines, the incorporation of the Discontinuance of Rental and Repricing clause in any contract which may result from this solicitation.

(End of provision)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38201, Sept. 29, 1988]

252.270-7007 Discontinuance of rental and repricing.

As prescribed at 270.310(g), insert the following clause:

DISCONTINUANCE OF RENTAL AND REPRICING (APR 1984)

(a) The Government may in lieu of a termination under the Termination for Convenience of the Government clause of this contract, during the initial or any option period of performance of this contract, discontinue rental of any equipment or software on a date specified in a written notice provided to the Contractor not less than 30 days prior to the specified discontinuance date. The Government may discontinue the rental on shorter notice when agreed to by the Contractor.

(b) In the event of discontinuance of rental under (a) above, the Government shall pay termination repricing charges to the Contractor as computed in accordance with this paragraph (b). The charges shall be the remainder obtained by subtracting the contract monthly rental price effective at the discontinuance date for the discontinued equipment or software item from the monthly rental price for the item under the GSA/ADP schedule contract or the established commercial catalog price, whichever is less, effective at the time of award of the contract's initial period of performance, multiplied by the number of months the item was rented during the particular contract period of performance (initial or option) in which the discontinuance was effective, *Provided*, in no event shall the total of termination repricing charges and the contract rental price for the number of months the item was rented during the period in which discontinuance was effective exceed the contract price for the item for the entire period.

(c) The provisions of this clause shall prevail when notice pursuant to this clause is made.

(End of clause)

252.270-7008 Rights in privacy safeguards.

As prescribed at 270.904, insert the following clause:

RIGHTS IN PRIVACY SAFEGUARDS (APR 1984)

(a) The details of any and all safeguards that the Contract may design or develop under this contract shall become and remain the property of the Government and shall not be published or disclosed in any manner without the express written consent of the Government.

(b) The details of any and all safeguards that may be revealed to the Contractor by the Government in the course of performing under this contract shall not be published or disclosed in any manner without the express written consent of the Government.

(End of clause)

252.270-7009 Access to contractor facilities and records—privacy safeguards inspection.

As prescribed at 270.904, insert the following clause:

ACCESS TO CONTRACTOR FACILITIES AND RECORDS—PRIVACY SAFEGUARDS INSPECTION (APR 1984)

(a) The Government shall, following presentation of advance written notice of ____ days be afforded full, free, and uninhibited access to all facilities and installations, and to all technical capabilities and operations, and to all documentation, records, and data bases for the purpose of carrying out a program of inspection to ensure continued efficacy and efficiency of safeguards against threats and hazards to data security, integrity, and confidentiality.

(b) In the event that new or unanticipated threats or hazards are discovered by either the Government or the contractor, or that existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party. Mutual agreement shall then be reached on changes or corrections to existing safeguards or institution of new safeguards with final determination of appropriateness being made by the Government. The cost of such changes or corrections shall be a matter of negotiation. The Government's liability is limited to an equitable adjustment of cost for such changes or corrections, and the Government shall not be liable for claims of loss of business, damage to reputation or damages of any other kind arising from discovery of new or unanticipated threats or hazards, or any public or private disclosure thereof.

(End of clause)

252.270-7100 Federal information processing standards publcations (FIPS PUB) clause.

252.270-7101 American Standard Code for Information Interchange (ASCII) system requirements.

As prescribed at 270.1103(a)(1), insert the following clause:

AMERICAN STANDARD CODE FOR INFORMATION INTERCHANGE (ASCII) SYSTEM REQUIREMENTS (MAR 1987)

The system, upon receiving a hardware or software command, shall accept data on magnetic tape, paper tape, or any other input/output media covered by an approved Federal Information Processing Standards Publication (FIPS PUB) in ACSII code and collating sequence prescribed in FIPS PUB 1-2 and in the format prescribed in FIPS PUBS 2-1, 3-1, 25, 50, or other applicable FIPS PUBS. Such data may be translated, if necessary, into a form that the proposed equipment can internally process provided that upon receiving a hardware or software command the proposed equipment can produce the processed data on magnetic tape, paper tape, printers, and other output media in the ACSII code and collating sequence prescribed in FIPS PUB 1-2 and in the format prescribed in FIPS PUBS 2-1, 3-1, 25, 50, or other applicable FIPS PUBS.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7102 Punched paper tape readers and punches.

As prescribed at 270.1103(a)(2), insert the following clause:

PUNCHED PAPER TAPE READERS AND PUNCHES (MAR 1987)

Punched paper tape equipment shall be capable of reading and punching in the prescribed American Standard Code for Information Interchange (ASCII) code and format specified in FIPS PUBS 1-2 and 2-1.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7103 Recorded magnetic tape for information interchange (800 CPI, NRZI).

As prescribed at 270.1103(a)(3), insert the following clause:

RECORDER MAGNETIC TAPE FOR INFORMATION INTERCHANGE (800 CPI, NRZI) (APR 1984)

All 9-track digital magnetic tape recording and reproducing equipment employing ½ inch wide tape at the recording density of 800 characters per inch (CPI), including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 3-1.

(End of clause)

252.270-7104 Rectangular holes in 12-row punched cards.

As prescribed at 270.1103(a)(4), insert the following clause:

RECTANGULAR HOLES IM 12-ROW PUNCHED CARDS (FEB 1983)

All punching or reading equipment utilizing 12-row 3¼-inch punched cards used in data processing, communications, and similar operations shall be capable of punching and reading rectangular holes of a size and location specified in FIPS PUB 13.

(End of clause)

252.270-7105 Hollerith punched card code.

As prescribed at 270.1103(a)(5), insert the following clause:

HOLLERITH PUNCHED CARD CODE (MAR 1987)

All punching or reading equipment utilizing 12-row 3¼-inch wide, rectangular hole punched cards used in data processing, communications, and similar operations shall be capable of punching or reading the Code for Information Interchange, FIPS PUB 1-2, or one of the approved Subsets of the Standard Code for Information.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7106 Subsets of the standard code for information interchange.

As prescribed at 270.1103(a)(6), insert the following clause:

SUBSETS OF THE STANDARD CODE FOR INFORMATION INTERCHANGE (MAR 1987)

Printers; display devices; data acquisition, preparation, and transcription devices; data communication terminal devices; punched card equipment; and other data processing or communications equipment not requiring the 128-character set of the Federal Code of Information Interchange, FIPS PUB 1-2, shall conform to one of the approved character Subsets of the Standard Code for Information Interchange, FIPS PUB 1-2. Printers of the "chain" or "train" or other replaceable symbol technology may also be provided with optional subsets having a different number of characters from those specified in FIPS PUB 1-2 in order to increase tne printer's repertoire of symbols or the printer's speed as required for local use, provided the ability to interchange information by the selected character subpart (FIPS PUB 1-2) is retained in the data processing system.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7107 Flowcharts, symbols, and their usage in information processing.

As prescribed at 270.1103(a)(7), insert the following clause:

FLOWCHARTS, SYMBOLS, AND THEIR USAGE IN INFORMATION PROCESSING (FEB 1983)

All new information processing system documentation involving the use of flowcharts that may result from this solicitation shall comply with FIPS PUB 24.

(End of clause)

252.270-7108 Recorded magnetic tape for information interchange (1600 CPI, Phase Code 0).

As prescribed at 270.1103(a)(8), insert the following clause:

RECORDED MAGNETIC TAPE FOR INFORMATION INTERCHANGE (1600 CPI, PHASE CODE O) (APR 1984)

All 9-track digital magnetic tape recording and reproducing equipment and employing ½-inch wide tape at the recording density of 1,600 characters per inch (CPI) phase encoded, including associated programs, shall provide the capability to accept and generate recorded tape in compliance with the requirements set forth in FIPS PUB 25.

(End of clause)

252.270-7109 One-inch perforated paper tape for information interchange.

As prescribed at 270.1103(a)(9), insert the following clause:

ONE-INCH PERFORATED PAPER TAPE FOR INFORMATION INTERCHANGE (APR 1984)

All one-inch wide perforated paper tape and related 8-channel paper tape punch and reading equipment which are utilized in Federal information processing systems, communication systems, and associated terminals employing perforated paper tape equipment, shall provide the capability to accept and generate tape in compliance with the requirements set forth in FIPS PUB 26.

(End of clause)

252.270-7110 Take-up reels for the one-inch perforated tape for information interchange.

As prescribed at 270.1103(a)(10), insert the following clause:

TAKE-UP REELS FOR THE ONE-INCH PERFORATED TAPE FOR INFORMATION INTERCHANGE (APR 1984)

All one-inch perforated tape take-up reels and related devices employing such reels, including paper tape readers, punches, and related tape-handling equipment, which are used in Federal information processing systems and associated equipment employing such devices, shall provide the capability to accept one of the two types of reels specified in FIPS PUB 27.

(End of clause)

252.270-7111 Software summary for describing computer programs and/or automated data systems.

As prescribed at 270.1103(a)(11), insert the following clause:

SOFTWARE SUMMARY FOR DESCRIBING COMPUTER PROGRAMS AND/OR AUTOMATED DATA SYSTEMS (APR 1984)

All documentation of computer programs and/or automated data systems shall include completed Standard Form (SF 185) summaries as described by FIPS PUB 30.

(End of clause)

252.270-7112 Optical character recognition equipment.

As prescribed at 270.1103(a)(12), insert the following:

OPTICAL CHARACTER RECOGNITION EQUIPMENT (APR 1984)

All applicable Optical Character Recognition (OCR) equipment or services shall comply with the provisions of FIPS PUB 32-1. Applicable OCR equipment also includes data input devices such as typewriters, line printers, and CRT displays. Applicable services include data preparation and processing information represented in OCR form.

(End of clause)

252 270-7113 Character set for handprinting.

As prescribed at 270.1103(a)(13), insert the following clause:

CHARACTER SET FOR HANDPRINTING (APR 1984)

All applicable Optical Character Recognition (OCR) equipment or services which are capable of reading handprinted material shall comply with FIPS PUB 33. The applicable services include data preparation and processing of information represented in OCR form.

(End of clause)

252.270-7114 Code extension technique in 7 or 8 bits.

As prescribed at 270.1103(a)(14), insert the following clause:

CODE EXTENSION TECHNIQUE IN 7 OR 8 BITS (MAR 1987)

All coded character sets which require control function and/or graphic symbols that are not included in the 128 characters of ASCII shall be implemented through the use of the code extension methods and techniques as described in FIPS PUB 1-2.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7115 Graphic representation of the control characters of ASCII (FIPS PUB 1-1).

As prescribed in 270.1103(a)(15), insert the following clause:

GRAPHIC REPRESENTATION OF THE CONTROL CHARACTERS OF ASCII (FIPS PUB 1-1) (MAR 1987)

All applicable equipment that prints or displays graphic representations of any or all the control characters of ASCII (FIPS PUB 1-2) or of the characters "space" or "delete" shall comply with the requirements set forth in FIPS PUB 1-2. This standard also applies to equipment that prints these graphic representations on media such as perforated tape, punched cards, or listings.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7116 Data encryption standards (DES).

As prescribed at 270.1103(a)(16), insert the following clause:

DATA ENCRYPTION STANDARDS (DES) (APR. 1984)

In the event that a data encryption requirement is specified, such encryption shall be accomplished in accordance with FIPS PUB 46. Implementations of the Standard embodied in products or services offered, that are asserted to have an encryption capability in conformance with FIPS PUB 46, shall have the capability validated by the National Bureau of Standards prior to being proposed. Arrangements for validation may be made with the Systems and Software Division, National Bureau of Standards, Washington, DC 20234.

(End of clause)

252.270-7117 Recorded magnetic tape for information interchange, 6250 characters per inch (CPI)(246 CPMM), group coded recording.

As prescribed in 270.1103(a)(17), insert the following clause:

RECORDED MAGNETIC TAPE FOR INFORMATION INTERCHANGE, 6250 CHARACTERS PER INCH (CPI) (246 CPMM), GROUP CODED RECORDING (APR 1984)

All applicable digital magnetic tape recording and reproducing equipment which employs ½-inch wide (12.7mm) magnetic computer tape at the recording density of 6250 characters per inch (246 characters per millimeter) group coded recording, including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 50.

(End of clause)

252.270-7118 Magnetic tape cassettes for information interchange (3.810mm (0.150 inch) tape at 32 BPMM (800 BPI), PE).

As prescribed at 270.1103(a)(18), insert the following clause:

MAGNETIC TAPE CASSETTES FOR INFORMATION INTERCHANGE (3.810MM (0.150 INCH) TAPE AT 32 BPMM (800 BPI), PE) (APR 1984)

All magnetic tape cassette recording and reproducing equipment which employs 3.810mm (0.150 inch) wide magnetic tape at the recording density of 32 bits per millimeter (800 bits per inch) using phase encoding techniques, including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 51.

(End of clause)

252.270-7119 Recorded magnetic tape cartridge for information interchange, 4-track, 6.30MM (0.25 inch), 63 BPMM (1600 BPI) phase encoded.

As prescribed at 270.1103(a)(19), insert the following clause:

RECORDED MAGNETIC TAPE CARTRIDGE FOR INFORMATION INTERCHANGE, 4-TRACK, 6.30 MM (0.25 INCH) 63 BPMM (1600 BPI) PHASE ENCODED (MAR 1987)

All magnetic tape cartridge recording and reproducing equipment which employs 6.30 millimeter (0.25 inch) wide magnetic tape with one, two, or four independent serial data tracks at recording densities of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUBS 1-2 and 52.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7120 Description of computer magnetic tape file properties.

As prescribed at 270.1130(a)(20), insert the following clause:

DESCRIPTION OF COMPUTER MAGNETIC TAPE FILE PROPERTIES (APR 1984)

All magnetic tape used to transmit coded information to the Federal Government shall include completed Standard Form 277 describing magnetic tape file properties as set forth in FIPS PUB 53.

(End of clause)

252.270-7121 Computer output microform (COM) formats and reduction ratios, 16MM and 105MM.

As prescribed at 270.1103(a)(21), insert the following clause:

COMPUTER OUTPUT MICROFORM (COM) FORMATS AND REDUCTION RATIOS, 16MM and 105.MM (FEB 1983)

All applicable equipment or services that may result from this solicitation that produce computer generated microforms using plaintype faces shall be in compliance with FIPS PUB 54.

(End of clause)

252.270-7122 Input/output (I/O) channel interface.

As prescribed at 270.1103(a)(22), insert the following clause:

INPUT/OUTPUT (I/O) CHANNEL INTERFACE (AUG 1986)

Unless excluded or waived in accordance with FIPS PUB 60-2, ADP systems and peripheral subsystems that may result from this solicitation shall conform to FIPS PUB 60-2 for the connection of computers to those general classes of peripheral subsystems (such as magnetic tape or disk subsystems) for which operational specifications have been issued and are in effect. The correct operation of these systems conforming interfaces shall be verified before the acceptance of all applicable ADP equipment. Arrangements for verification may be made according to procedures issued by the National Bureau of Standards. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Verification of I/O Channel Interface Standards. The Government may at its option apply instrumentation and test equipment at any interface required to conform with FIPS PUB 60-2 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 60-2.

(End of clause)

252.270-7123 Channel level power control interface.

As prescribed at 270.1103(a)(23), insert the following clause:

CHANNEL LEVEL POWER CONTROL INTERFACE (AUG 1986)

Unless otherwise excluded as specified in FIPS PUB 61-2 by reference to FIPS PUB 60-1 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 60-2, ADP systems and peripheral subsystems that may result from this solicitation, and for which operational specifications FIPS PUBS (such as FIPS PUB 62-1 and 63-1) have been issued and are in effect, shall conform to FIPS PUB 61-1. The correct operation of these systems' conforming interfaces shall be verified before the acceptance of all applicable ADP equipment. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 61-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 61-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of clause)

252.270-7124 Operational specification for magnetic tape subsystems.

As prescribed at 270.1103(a)(24), insert the following clause:

OPERATIONAL SPECIFICATION FOR MAGNETIC TAPE SUBSYSTEMS (AUG 1986)

Unless otherwise excluded, as specified in FIPS PUB 62-1 by reference to FIPS PUB 60-2 or unless a waiver is granted following the procedures specified in FIPS PUB 62-1, ADP systems and magnetic tape subsystems that may result from this solicitation shall conform to FIPS PUB 62-1. The correct operation of these systems' conforming interfaces shall be verified before the acceptance of all applicable ADP equipment. The Government may, at its option, apply instrumentation test equipment at any interface required to conform to FIPS PUB 61-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 62-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of clause)

252.270-7125 Interface: ADP SYstems Variable Block, Rotating Mass Storage Subsystems.

As prescribed at 70.1103(a)(25), insert either the clause at (a) or (b):

(a) INTERFACE: ADP SYSTEMS-VARIABLE, BLOCK, ROTATING MASS STORAGE SUBSYSTEMS WITH CONFORMANCE TO SUPPLEMENTAL DEVICE DEPENDENT CHARACTERISTICS (AUG 1986)

Unless excluded or waived in accordance with FIPS PUB 63-1, ADP systems and variable block, rotating mass storage subsystems that may result from this specification shall conform to FIPS PUB 63-1. In addition, conformance to the specifications for Class(es) (Insert class(es) as contained in the NBS report entitled "Additional Operational Specifications for Variable Block Rotating Mass Storage Devices") is required. The correct operation of all interfaces, whose conformance to FIPS PUB 63-1 and the above designated class(es) is required, shall be verified before the acceptance of all applicable ADP equipment. Arrangements for verification may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C.

20234, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 63-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 63-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of clause)

(b) INTERFACE: ADP SYSTEMS/VARIABLE BLOCK, ROTATING MASS STORAGE SUBSYSTEMS WITHOUT SUPPLEMENTARY DEVICE DEPENDENT CHARACTERISTICS (AUG 1986)

Unless excluded or waived in accordance with FIPS PUB 63-1, ADP systems and variable block, rotating mass storage subsystems that may result from this solicitation shall conform to FIPS PUB 63-1. The correct operation of all interface, whose conformance to FIPS 63-1 is required, shall be verified before the acceptance of all applicable ADP equipment. Arrangements for verification may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 63-1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 63-1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of clause)

252.270-7126 Magnetic tape labels and file structure information interchange.

As prescribed at 270.1103(a)(28), insert the following clause:

MAGNETIC TAPE LABELS AND FILE STRUCTURE INFORMATION INTERCHANGE (FEB 1983)

Information processing systems using 9-track tape drives and new tape label processing facilities that will be part of an information processing system shall be capable of generating and processing tape labels and file structures that conform to one of the four levels of FIPS PUB 79 if the information processing system either generates or accepts magnetic tapes for information interchange. Offerors shall specify the level of conformance and certify that a copy of the current users manual is on file with the National Bureau of Standards as required by FIPS PUB 79.

(End of clause)

252.270-7127 Data Encryption Standard (DES) modes of operation.

As prescribed at 270.1103(a)(29), insert the following clause:

DATA ENCRYPTION STANDARD (DES) MODES OF OPERATION (APR 1984)

Equipment and services that implement the Data Encryption Standard and are intended for use in the cryptographic protection of sensitive but unclassified computer data, shall use one or more of the modes of operation specified in FIPS PUB 81.

(End of clause)

252.270-7128 Microform readers.

As prescribed at 270.1103(a)(30), insert the following clause:

MICROFORM READERS (FEB 1983)

Microform readers offered as a result of this solicitation that display computer-generated microforms conforming to FIPS PUB 4 shall comply with the provisions of FIPS PUB 84.

(End of clause)

252.270-7129 Optical Character Recognition (OCR) inks.

As prescribed at 270.1103(a)(31), insert the following clause:

OPTICAL CHARACTER RECOGNITION (OCR) INKS (APR 1984)

Inks and preprinted forms shall be required to conform to the provisions of FIPS PUB 85 if they will be read by OCR techniques and if the interchange of machine-readable information between different systems may be required.

(End of clause)

252.270-7130 Optical Character Recognition (OCR) printers, readers and printed forms.

As prescribed at 270.1103(a)(32), insert the following clause:

OPTICAL CHARACTER RECOGNITION (OCR) PRINTERS, READERS AND PRINTED FORMS (APR 1984)

OCR printers, readers and printed forms shall conform to the provisions of FIPS PUB 89, when the interchange of machine sensible information between different systems is required as specified elsewhere herein.

(End of clause)

252.270-7131 Digital magnetic tape cassette equipment and associated programs.

As prescribed at 270.1103(a)(33), insert the following clause:

DIGITAL MAGNETIC TAPE CASSETTE EQUIPMENT AND ASSOCIATED PROGRAMS (APR 1984)

All digital magnetic data cassette recording and reproducing equipment which employ dual track, complementary return-to-bias (CRB), four-states recording techniques on 3.81mm (0.150 in) tape, including associated programs, shall provide the capability to accept and generate recorded tape cassettes in compliance with the requirements set forth in the Federal Standard as stated in FIPS PUB 91 and as may be specified elsewhere herein.

(End of clause)

252.270-7132 Acquisition and validation of COBOL compilers.

As prescribed at 270.1103(a)(34), insert the following clause:

ACQUISITION AND VALIDATION OF COBOL COMPILERS (APR 1984)

(a) COBOL compilers offered as a result of the requirements set forth in this solicitation shall be identified as implementing all of the language elements of at least one of the levels of Federal Standard COBOL as specified in FIPS PUB 21-1. Implementation must provide a facility for the user to optionally specify a level of Federal Standard COBOL for monitoring the source program at compile time. Monitoring may be specified for any level at or below the highest level for which a compiler is implemented and shall consist of an analysis of the syntax used in a source program against the syntax included in the level specified for monitoring. Any syntax not conforming to the specified level will be identified through a diagnostic message in the source program listing. The diagnostic message will contain at least the identification of the source program line number for each nonconforming syntax and identify the level of Federal Standard COBOL that supports the syntax or indicates that the syntax is nonstandard COBOL.

(b)(1) In addition to the specified mandatory COBOL compiler requirements stated in the specification portion of this solicitation, all COBOL compilers brought into the Federal inventory as a result of this solicitation, the most recent release of which has not been previously tested, shall be tested using the official COBOL Compiler Validation System (CCVS). The results of the validation shall be used to confirm that the compiler meets the specified requirements of the designated level of FIPS PUB 21-1, Federal Standard COBOL. To be considered responsive, the vendor shall:

(i) Certify in the proposal that all COBOL compilers offered in response to this solicitation have been submitted for validation, and

(ii) Agree to correct all deviations from the standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations shall be corrected within 12 months from the date of contract award unless a shorter period is specified elsewhere in the solicitation. If an interpretation of the standard is required that will invoke the procedures set forth in FIPS PUB 29, such requests for interpretation shall be made within 30 calendar days after. contract award.

(2) Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29 shall be completed within 12 months of the date of formal notification of the interpretation to the contractor. Failure to make required corrections within the time provisions set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver either operating system or other software shall apply. In addition, such failure falls within the purview of the default clause. If the required corrections are not made within the time provisions specified above, subsequent proposals submitted to the Government offering the deficient COBOL compilers or subsequent uncorrected versions thereto shall be considered nonresponsive.

(End of clause)

252.270-7133 Acquisition of COBOL programs and/or programming services.

As prescribed at 270.1103(a)(35), insert the following clause:

ACQUISITION OF COBOL PROGRAMS AND/OR PROGRAMMING SERVICES (APR 1984)

Business-oriented computer application programs (i.e, those applications or programs that emphasize the manipulation of characters, files, and input/output as contrasted with those concerned primarily with computation of numeric values) offered or prepared as a result of the requirements set forth in this solicitation shall be written using one of the levels of Federal Standard COBOL as defined in FIPS PUB 21-1, including optional language elements, if any, as specified herein. If services provided include compilation(s), compilers used to perform these services shall be validated.

(End of clause)

252.270-7134 Delayed validation of compilers.

As prescribed at 270.1103(a)(36), insert the following clause:

DELAYED VALIDATION OF COMPILERS (APR 1984)

In addition to the compiler requirements specified elsewhere in this document, all compilers for Federal Standard programming languages brought into the Federal inventory as a result of this document and those compilers used by vendors to develop programs or provide services shall be tested using the official Compiler Validation System (CVS).

The results of the validation shall be used to confirm that the compiler meets the requirements of the applicable Federal Standard specified elsewhere in this document. To be considered responsive, the vendor shall:

(1) Certify in the proposal that all Federal Standard programming language compilers offered in response to this document have been submitted for validation or have been previously validated and listed in the latest Federal Software Testing Center (FSTC) Certified Compiler List. Proof of current validation will be provided in the form of a Certificate of Validation from the FSTC. Unless specified elsewhere in the requirements document, proof of submission for validation will be in the form of a letter from the FSTC scheduling the validation.

(2) Agree to correct all deviations from the applicable Federal Standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of the Federal Standard is required that will invoke the procedures set forth in FIPS PUB 29-1, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29-1 shall be completed within 12 months of the date of formal notification to the contractor of the approval of the interpretation. Proof of correction in either case will be in the form of a Certificate of Validation from the FSTC for the corrected compiler. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. Any liquidated damages as specified for failure to deliver the operating system or other software shall apply.

(End of clause)

252.270-7135 Interchange of machine processable data between and among agencies.

As prescribed at 270.1103(a)(37), insert the following clause:

INTERCHANGE OF MACHINE PROCESSABLE DATA BETWEEN AND AMONG AGENCIES (FEB 1983)

All application programs resulting from this solicitation that have been identified as those that will be interchanged, or that will record data that will be interchanged with Federal agencies, state and local governments, industry, and the public, shall implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4 Calendar Date.
FIPS PUB 5-1 States and Outlying Areas of the United States.
FIPS PUB 6-3 Counties and County Equivalents of the States of the United States and the District of Columbia.
FIPS PUB 8-4 Standard Metropolitan Statistical Areas.
FIPS PUB 9 Congressional Districts of the United States.
FIPS PUB 10-2 Countries, Dependencies, and Areas of Special Sovereignty.
FIPS PUB 58 Representations of Local Time of the Day for Information Interchange.
FIPS PUB 59 Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.
FIPS PUB 66 Standard Industrial Classification (SIC) Codes.
FIPS PUB 70 Representation of Geographic Point Locations for Information Exchange.
FIPS PUB 95 Code for the Identification of Federal and Federally Assisted Organizations.

(End of clause)

252.270-7136 Additional American Standard Code for Information Interchange (ASCII) controls for character-imaging ADP equipment or services.

As prescribed by 270.1103(a)(38), insert the following clause:

ADDITIONAL AMERICAN STANDARD CODE FOR INFORMATION INTERCHANGE (ASCII) CONTROLS FOR CHARACTER-IMAGING ADP EQUIPMENT OR SERVICES (MAR 1987)

All applicable ADP character-imaging equipment or services (e.g., interactive ADP terminals of the display and printer type, line printers, microfilm printers, typesetting composers, word processors, and related devices or services using such devices) offered as a result of this solicitation shall comply with the requirements set forth in FIPS PUB 86 when such equipment or services employ the character set and encoding conventions prescribed FIPS PUB 1-2, employ primarily character-oriented controls, and are consistent with the architectural assumptions for devices in Appendix B, ANS X3.64-1979. All ADP terminals that meet these conditions are included in this requirement if they contain alphanumeric keyboards and CRT displays or printers that may be used in any form of on-line interactive application or standalone off-line data preparation. Computer resident control software may be used, but is not required, to implement specific features of FIPS PUB 86, unless specified otherwise in this document (insert reference).

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

252.270-7137 Interface: ADP Systems/Fixed Block, Rotating Mass Storage Subsystems.

As prescribed by 70.1103(a)(37), insert the following clause:

INTERFACE: ADP SYSTEMS/FIXED BLOCK, ROTATING MASS STORAGE SUBSYSTEMS (AUG 1986)

Unless excluded or waived in accordance with FIPS PUB 97, ADP systems and Fixed Block, Rotating Mass Storage Subsystems, that may result from this solicitation shall conform to FIPS PUB 97. The correct operation of all interfaces whose conformance to FIPS PUB 97 is required shall be verified before the acceptance of all applicable ADP equipment. A [illegible] ments for verification may be obtair [illegible] iting the Director, Institute for Co [illegible] Sciences and Technology, National [illegible] u of Standards, Washington, D.C. 20234. Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 97 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 97. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

(End of clause)

252.270-7200 Joint Federal Informatio Processing/Federal Telecommunica tions Standards (FIPS-FED/STD Clauses.

252.270-7201 Synchronous high speed da signaling rates between data termin equipment and data communicatio equipment.

As prescribed at 270.1103(b)(1 insert the following clause:

SYNCHRONOUS HIGH SPEED DATA SIGNALING RATES BETWEEN DATA TERMINAL EQUIPMENT AND DATA COMMUNICATION EQUIPMENT (FE 1983)

All applicable equipment or services re sulting from the solicitation that are em ployed with synchronous data communica tion equipment designed to operate o binary coded information over wide-ban communication channels shall comply wi FIPS PUB 37/FED-STD 1001.

(End of clause)

252.270-7202 Bit sequencing of the code o information interchange in serial-b bit data transmission.

As prescribed at 270.1103(b)(2 insert the following clause:

BIT SEQUENCING OF THE CODE OF IN FORMATION INTERCHANGE IN SERIAL-BY-BIT DATA TRANSMIS SION (MAR 1987)

All applicable equipment or services tha may result from this solicitation, transmi ting in a serial-by-bit, serial-by-characte mode, shall be capable of bit sequencing a prescribed in FIPS PUB 16-1/FED-STD 1010 for the transmission of the Standar Code for Information Interchange, an FIPS PUB 1-2 at the interface between da terminal equipment and data communica tion equipment.

(End of clause)

[51 FR 46335, Dec. 23, 1986, as amended a 53 FR 38197, Sept. 29, 1988]

252.270-7203 Character structure an character parity sense for serial-by-bi data communication in the code for in formation interchange.

As prescribed at 270.1103(b)(3 insert the following clause:

CHARACTER STRUCTURE AND CHARACTER PARITY SENSE FOR SERIAL-BY-BIT DATA COMMUNICATION IN THE CODE FOR INFORMATION INTERCHANGE (MAR 1987)

All applicable equipment that may result rom this solicitation, transmitting in a erial-by-bit, serial-by-character synchro- ous or asynchronous mode, shall be capa- le of transmitting the character structure nd sense of character parity prescribed in IPS PUB 17-1/FED-STD 1011 for the ransmission of the Standard Code for In- ormation Interchange, FIPS PUB 1-2 at he interface between data terminal equipment and data communications equipment.

(End of clause)

51 FR 46335, Dec. 23, 1986, as amended at 3 FR 38197, Sept. 29, 1988]

52.270-7204 Character structure and character parity sense for parallel-by-bit data communication.

As prescribed at 270.1103(b)(4), nsert the following clause:

HARACTER STRUCTURE AND CHARACTER PARITY SENSE FOR PARALLEL-BY-BIT DATA COMMUNICATION (MAR 1987)

All applicable equipment or services that ay result from this solicitation, transmit- ing in a parallel-by-bit, serial-by-character ode, shall be capable of transmitting the haracter structure and sense of character arity prescribed in FIPS PUB 18-1/FED- TD 1012, when transmitting the Standard ode for Information Interchange, FIPS UB 1-2, or an approved Federal subset FIPS PUB 15) at the interface between ata terminal equipment and data commu- ication equipment.

(End of clause)

51 FR 46335, Dec. 23, 1986, as amended at 3 FR 38197, Sept. 29, 1988]

52.270-7205 Synchronous signaling rates between data terminal and data communication equipment.

As prescribed at 270.1130(b)(5), nsert the following clause:

YNCHRONOUS SIGNALING RATES BETWEEN DATA TERMINAL AND DATA COMMUNICATION EQUIPMENT (FEB 1983)

All applicable equipment or services re- ulting from this solicitation that are em- loyed in conjunction with synchronous ata communication equipment designed to operate on binary encoded information in either serial or parallel fashion over voice grade communication channels of nominal 4kHz bandwidth shall comply with FIPS PUB 22-1/FED-STD 1013.

(End of clause)

252.270-7206 Data link control—synchronous bit-oriented data.

As prescribed at 270.1103(b)(6), insert the following:

DATA LINK CONTROL—SYNCHRONOUS BIT-ORIENTED DATA (APR 1984)

All equipment or services using synchronous, bit-oriented data communications offered as a result of this solicitation shall implement the class of procedures specified in FIPS PUB 71/ FED-STD 1003A.

(End of clause)

252.270-7207 Interface Between Data Terminal Equipment (DTE) and Data Circuit Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Network.

As prescribed at 70.1103(b)(7), inser the following clause:

INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORK (AUG 1986)

All applicable ADP and telecommunications equipment or services using public packet switched data communication networks which require an interface based on CCITT Recommendation X.25 shall comply with the requirements specified in FIPS PUB 100/FED-STD 1041.

(End of clause)

252.270-7300 Federal Telecommunications Standards (FED/STD) Clauses.

252.270-7301 Time and frequency reference information in telecommunications systems.

As prescribed at 270.1103(c)(1), insert the following clause:

TIME AND FREQUENCY REFERENCE INFORMATION IN TELECOMMUNICATIONS SYSTEMS (FEB 1983)

All applicable telecommunications facilities and systems that are offered or used as a result of this solicitation shall be referenced to the time and frequency standard specified in FED-STD 1002.

(End of clause)

252.270-7302 Coding and modulation requirements for nondiversity 2400 bit/second modems.

As prescribed at 270.1103(c)(2), insert the following clause:

CODING AND MODULATION REQUIREMENTS FOR NONDIVERSITY 2400 BIT/SECOND MODEMS (FEB 1983)

All nondiversity 2400 bits per second modems offered as a result of this solicitation for use with 4kHz channels derived from either switched networks or dedicated lines shall comply with FED-STD 1005.

(End of clause)

252.270-7303 Coding and modulation requirements for 4800 bit/second modems.

As prescribed at 270.1103(c)(3), insert the following clause:

CODING AND MODULATION REQUIREMENTS FOR 4800 BIT/SECOND MODEMS (FEB 1983)

All 4800 bits per second modems (and equipment containing the 4800 bits per second modems) offered as a result of this solicitation for use with nominal 4kHz analog channels shall comply with FED-STD 1006.

(End of clause)

252.270-7304 Coding and modulation requirements for duplex 9600 bit/second modems.

As prescribed at 270.1103(c)(4), insert the following clause:

CODING AND MODULATION REQUIREMENTS FOR DUPLEX 9600 BIT/SECOND MODEMS (FEB 1983)

All duplex 9600 bits per second modems offered as a result of this solicitation for use by nominal 4kHz analog transmission channels shall comply with FED-STD 1007.

(End of clause)

252.270-7305 Coding and modulation requirements for Duplex 600 and/or 1200 bit/second modems.

As prescribed at 270.1103(c)(5), insert the following clause:

CODING AND MODULAT MENTS FOR DUPLEX 1200 BIT/SECOND M 1983)

All two-wire duplex 600 and/or 1200 bits per second those to be acoustically phone instruments) offere this solicitation for use wi analog channels shall co STD 1008.

(End of clau

252.270-7306 Electrical c balanced voltage digit cuits.

As prescribed at insert the following cla

ELECTRICAL CHARAC BALANCED VOLTA INTERFACE CIRCUITS

All equipment using bala tal interface cicuits that result of this solicitation s the electrical characterist FED-STD 1020A.

(End of clau

252.270-7307 Electrical c unbalanced voltage circuits.

As prescribed at insert the following cla

ELECTRICAL CHARAC UNBALANCED VOLT INTERFACE CIRCUITS

All equipment using un digital interface circuits th result of this solicitation s the electrical characterist FED-STD 1030A.

(End of clau

252.270-7308 Group 2 fac for document transmis

As prescribed at insert the following cla

GROUP 2 FACSIMILE AP DOCUMENT TRANSMISS

All Group 2 facsimile app a result of this solicitati voice-band analog circuits s FED-STD 1061.

(End of clause)

252.270-7309 Cryptographic components, equipment, systems, and services.

As prescribed in 270.1103(c)(9), insert the following clause:

CRYPTOGRAPHIC COMPONENTS, EQUIPMENT, SYSTEMS, AND SERVICES (JUN 1984)

If a requirement for the encryption protection of unclassified digital information in the telecommunications environment is specified elsewhere in this solicitation, all cryptographic components, equipment, systems, and services offered to meet that requirement shall comply with FED-STD 1027 and be endorsed as so complying by the National Security Agency prior to being proposed. These items include standalone DES cryptographic equipment as well as any Data Terminal Equipment and Data Circuit-Terminating Equipment utilizing the DES algorithm (described in FIPS PUB 46) for digital encryption. Arrangements for endorsement may be made with the Communications Protection Special Projects Office (S84), National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755.

(End of clause)

252.270-7310 Acquisition, design, or development of Group 3 facsimile apparatus.

As prescribed by 270.1103(c)(10), insert the following clause:

ACQUISITION, DESIGN, OR DEVELOPMENT OF GROUP 3 FACSIMILE APPARATUS (JUNE 1984)

All Group 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED-STD 1062.

(End of clause)

252.270-7311 Acquisition, design or development of Groups 1, 2, and 3 facsimile apparatus.

As prescribed by 270.1103(c)(11), insert the following clause:

ACQUISITION, DESIGN, OR DEVELOPMENT OF GROUP 1, 2, and 3 FACSIMILE APPARATUS (JUN 1984)

All groups 1, 2, and 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED-STD 1063.

(End of clause)

252.270-7400 Other automatic data processing standards clauses.

252.270-7401 BASIC language compilers.

As prescribed at 270.1103(a)(26), insert the following clause:

BASIC LANGUAGE COMPILERS (APR 1984)

BASIC compilers offered as a result of this solicitation shall implement Federal Standard Minimal BASIC, as well as any additional language elements as specified elsewhere in the requirements document (insert reference here).

(End of clause)

252.270-7402 FORTRAN language compilers.

As prescribed at 270.1103(a)(27), insert the following clause:

FORTRAN LANGUAGE COMPILERS (APR 1984)

FORTRAN compilers offered as a result of this solicitation shall implement all of the language elements of the level of Federal Standard FORTRAN specified elsewhere in this requirements document (insert reference here), as well as any additional language elements as specified elsewhere in this document (insert reference here). The compiler shall enable the user to monitor any statement appearing in the source program that does not conform syntactically to the specifications of Federal Standard full FORTRAN.

(End of clause)

252.270-7403 Protection against compromising emanations.

As prescribed at 270.1003(c), insert the following clause:

PROTECTION AGAINST COMPROMISING EMANATIONS (APR 1984)

The Contractor shall certify in his bid/proposal that computer equipment, as specified by the Government, to be provided or used under this contract has been accredited to meet the appropriate security requirements of the National Communications Security Subcommittee on Compromising Emanations (SCOCE) National TEMPEST Standards (NACSEM No. 5100 or NACSIM No. 5100A, "Compromising Emanations Laboratory Test Standard, Electromagnetics (U)") or other specified standard and, upon request of the Contracting Officer, shall

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provide documentation supporting this accreditation. Notwithstanding the existence of valid accreditations of equipment(s) prior to award of contract, the Government may, as part of its inspection and acceptance, conduct such additional tests at the installation site or Contractor's facility to ensure that equipment/systems delivered or used under the contract satisfy the security standards of NACSEM 5100, NACSIM 5100A, or other approved standards as specified elsewhere in this solicitation/contract. Unless otherwise provided in this contract under the Warranty of Supplies or Warranty of Systems and Equipment clauses, the Contractor shall correct or replace, at no cost to the Government, accepted equipment/systems found to be deficient within one year after proper installation. This applies regardless of f.o b. point or the point of acceptance of the deficient equipment/systems. Should a modification to the delivered equipment be made by the Contractor, the one-year period is applied to the modification upon its proper installation.

(End of clause)

252.271-7001 Recovery of nonrecurring costs on commercial sales of defense products and technology and of royalty fees for use of DoD technical data.

As prescribed in 271.004(a), insert the following clause.

RECOVERY OF NONRECURRING COSTS ON COMMERCIAL SALES OF DEFENSE PRODUCTS AND TECHNOLOGY AND OF ROYALTY FEES FOR USE OF DOD TECHNICAL DATA (FEB 1989)

(a) *Definitions.* As used in this clause:

"Derivative Item" means an item derived from a Defense item which consists of common parts equal to, or more than, ten percent (10%) of the Defense item.

"Direct Sale" means a commercial sale to a non-U.S. Government customer, either foreign or domestic, by a Defense contractor of products, technology, material, services, or development or production techniques that originally were developed, or improved using DoD appropriations or funds.

"DoD" Focal Points"—See § 271.006.

"Foreign Military Sale (FMS)" means a sale, by the DoD, of Defense articles or Defense services to a foreign government or international organization under authority of the Arms Export Control Act.

"License" means the legal right to use technical data with or without compensation and with or without restrictions.

"Nonrecurring Costs (NC)" includes DoD costs as follows:

(1) The costs funded by a Research, Development, Test, and Evaluation (RDT&E) appropriation to develop or improve the product or technology under consideration either through contract DoD or in-house effort. This includes costs of any engineering change proposal initiated before the date of calculation of the NC recoupment charges as well as projections of such costs to the extent additional effort applicable to the sale model or technology is necessary or planned.

(2) The costs funded by either procurement or operation and maintenance (O&M) appropriations in support of production. These are one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. These NC include DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. This includes costs of any engineering change proposals initiated before the date of calculations of the NC recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made in accordance with the FAR or DoD FAR Supplement.

"Non-U.S. Contractor" means a contractor or subcontractor organized or existing under the laws of a country other than the United States, its territories, or possessions.

"Pro Rata Recovery of Nonrecurring Costs" means equal distribution (proration) of a pool of nonrecurring costs to a specific number of units that benefit from the investment so that a DoD Component will collect from a customer a fair (pro rata) share of the investment in the product being sold.

"Royalty Fee" means a charge that is assessed for the use of DoD technical data for the purpose of manufacturing an item for a non-U.S. Government customer. The purpose of the charge is to recoup an appropriate share of the DoD NC incurred to develop the technical data and technology.

"Scheduled Nonrecurring Recoupment Charges" means charges published in a DoD Directive, Instruction, or Manual. Royalty fee percentages are published in DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology." Unit charges on specific items of equipment are published in DoD 5105.38-M "Security Assistance Management Manual" and DoD 7290.3-M, "FMS Financial Management Manual."

"Special RDT&E and Nonrecurring Production Costs" means costs incurred at the request of, or for the benefit of, a foreign customer to develop a special feature or unique requirement.

"Technical Data" is defined in 227.471.

"Technology" means information of any kind that can be used or adapted for use the design, production, manufacture, utilization, or reconstruction of articles or material. The data may take a tangible form, such as a scale model, prototype, blueprint, or an operating manual, or may take an intangible form, such as technical advice to implement DoD Directive 2140.2.

(b) The Contractor agrees to reimburse the U.S. Government for a fair share of the U.S. Government's investment in special RDT&E and nonrecurring production costs on domestic or foreign commercial sales of defense articles and technology subject to a recoupment charge. The fair share is determined by the DoD following procedures set forth in DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology."

(c) Sales where the U.S. Government is the eventual purchaser are not subject to this clause.

(d) In the event the Contractor intends to enter into domestic or foreign commercial sales for items in this contract, or essentially similar items, or to enter into license or technical assistance agreements for the technology developed under this contract, the Contractor shall:

(1) Determine if the DoD has a scheduled nonrecurring recoupment charge for the article or technology being sold or transferred.

(i) Where a charge has been established, the Contractor may request that a charge be reviewed if significant changes in factors or assumptions have occurred.

(ii) If the DoD Focal Point has not responded to a Contractor's request within thirty (30) days, the recoupment charge will be four percent (4%) of the sales price.

(2) Provide the DoD Focal Point with commercial sales forecasts of articles and technology subject to a recoupment charge when required.

(3) Notify the DoD Focal Point of all commercial sales (either foreign or domestic), that are subject to a recoupment charge. The notification will identify the product or technology being sold or licensed for production, the purchaser, the quantity sold, the applicable recoupment charges, the time frame for delivery, and the identification of the export license (commercial or state) if sale is for export. The notification will be made when each agreement for sale of a defense article or technology is made.

(4) Pay the established recoupment charges to the DoD Focal Point within thirty (30) days following delivery to or acceptance of the item by a purchaser (whichever comes first) or such other time as may be agreed to by the parties.

(5) Certify, on or before the sixtieth (60th) day following the end of each calendar year during which recoupment amounts were due, to the applicable Department of Defense Focal Point that proper notification to the U.S. Government of all commercial sales subject to this clause has been accomplished. The certificate to be executed by the Contractor is shown below:

CERTIFICATE OF NOTIFICATION OF ALL COMMERCIAL SALES SUBJECT TO THE CLAUSE 252.272-7001

This is to certify that, to the best of my knowledge and belief, all notices required by DFARS 252.271-7001 have been provided and are accurate, complete, and current as of the end of the calendar year* ____.

____

Firm

____

Name

____

Title

____

Date of execution**

*Insert the current calendar year.

**Insert the day, month, and year of signing, which shall be on or before the sixtieth (60th) day following the end of each calendar year during which recoupment amounts were due.

(End of Certificate)

(e) In the case of a commercial sale to a foreign government or international organization that qualifies for U.S. Government Foreign Military Sales, the Contractor agrees to inform his customer that any Defense-furnished goods, services, and transportation (i.e., DoD support costs) can be provided only by means of a Foreign Military Sales case (DoD Offer and Acceptance, DD Form 1513), executed by the U.S. Government and the customer.

(f) In the event of a commercial sale of items developed under this contract, or essentially similar items, or sale or license of technology relating thereto, the Contractor agrees to relieve the Government of any and all loss or liability that might result from the Contractor's use of Government data, tooling, test equipment, or facilities.

(g) The substance of this clause shall be placed in all subcontracts for components or items which can be sold commercially and which meet, or are expected to meet, the threshold set forth herein.

(End of clause)

[54 FR 11727, Mar. 22, 1989, as amended at 54 FR 31039, July 26, 1989]

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PART 253—FORMS

Subpart 253.1—General

Sec.
253.105 Computer preparation.
253.170 Forms for use in DoD acquisition.

Subpart 253.2—Prescription of Forms

253.204-70 Contractor identification (DD Form 2051).

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

Subpart 253.1—General

253.105 Computer preparation.

The Department of Defense has notified the FAR Secretariat that it will computer-generate the standard and optional forms prescribed by the FAR. Accordingly, contracting offices in the Department of Defense are not required to provide further notice to the FAR Secretariat.

[53 FR 46459, Nov. 17, 1988]

253.170 Forms for use in DoD acquisition.

This part contains illustrations of Department of Defense Acquisition Forms. The DoD Forms illustrated in this part are presented in numerical order to provide a ready source of reference. Some DD Forms that were previously illustrated in the DAR have been converted to Standard Forms and are published in the FAR or are published in the FAR as DD Forms. A few have been deleted. The Table of Contents of this part has been annotated with the status of all DD Forms previously published in the DAR. Except as may be otherwise indicated in this DoD FAR Supplement, all DD Forms illustrated in this part may be continued on (a) bond paper, or (b) specially constructed continuation sheets (e.g., DD Form 250c). Continuation sheets shall be annotated in the upper right-hand corner with the number of the form being continued and the serial page number of the total pages being prepared (e.g. page 5 of 15). Contracting offices may computer-generate DD Forms provided there is no change to the content or sequence of the data elements and the form carries the DD Form number and edition date.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 46459, Nov. 17, 1988]

Subpart 253.2—Prescription of Forms

253.204-70 Contractor identification (DD Form 2051).

DD Form 2051, Request for Assignment of a Commercial and Government entity (CAGE) Code, is prescribed for use in requesting CAGE codes. (See 204.670-5(d).)

[52 FR 36421, Sept. 29, 1987]

EDITORIAL NOTE: Department of Defense Acquisition Forms are not published in the Federal Register or the Code of Federal Regulations. For the convenience of the user, the list set forth below includes section numbers and form numbers and titles.

253.303-70-DD-250 DD Form 250: Material Inspection and Receiving Report.
253.303-70-DD-250c DD Form 250c: Material Inspection and Receiving Report-Continuation Sheet.
253.303-70-DD-250-1 DD Form 250-1 Tanker/Barge Material Inspection and Receiving Report.
253.303-70-DD-346 DD Form 346: Raw (Basic Processed) and Semi-Fabricated Stock Form.
253.303-70-DD-347 DD Form 347: Bill of Materials for—Sub-Contracted Parts-Purchased Parts—Government-Furnished Property.
253.303-70-DD-350 DD Form 350: Individual Contracting Action Report (Over $25,000).
253.303-70-DD-375 DD Form 375: Production Progress Report.
253.303-70-DD-375c DD Form 375c: Production Progress Report (Continuation)
253.303-70-DD-375-2 DD Form 375-2 Delay in Delivery.
253.303-70-DD-416 DD Form 416: Purchase Request for Coal, Coke or Briquettes.
253.303-70-DD-428 DD Form 428: Communication Service Authorization.
253.303-70-DD-448 DD Form 448: Military Interdepartmental Purchase Request.
253.303-70-DD-448-2 DD Form 448-2: Acceptance of MIPR.
253.303-70-DD-879 DD Form 879: Statement of Compliance.
253.303-70-DD-882 DD Form 882: Report of Inventions and Subcontracts (Pursuant to "Patent Rights" Contract Clause).

253.303-70-DD-1057 DD Form 1057: Monthly Contracting Summary of Actions $25,000 or Less.

253.303-70-DD-1114 DD Form 1114: Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.

253.303-70-DD-1131 DD Form 1131: Cash Collection Voucher.

253.303-70-DD-1149 DD Form 1149: Requisition and Invoice/Shipping Document.

253.303-70-DD-1155 DD Form 1155: Order for Supplies or Services/Request for Quotations.

253.303-70-DD-1155c-1 DD Form 1155c-1: Order for Supplies or Services (Commissary Continuation Sheet).

253.303-70-DD-1342 DD Form 1342: DoD Property Record.

253.303-70-DD-1348 DD Form 1348: DoD Single Line Item Requisition System Document (Manual).

253.303-70-DD-1348m DD Form 1348m: DoD Single Line Item Requisition System Document (Mechanical).

253.303-70-DD-1348-1 DD Form 1348-1: DoD Single Line Item Release/Receipt Document.

253.303-70-DD-1384 DD Form 1384: Transportation Control and Movement Document.

253.303-70-DD-1419 DD Form 1419: DoD Industrial Plant Equipment Requisition.

253.303-70-DD-1423 DD Form 1423: Contract Data Requirements List.

253.303-70-DD-1423-1 DD Form 1423-1: Contract Data Requirements List (1 Data Item).

253.303-70-DD-1423-2 DD Form 1423-2: Contract Data Requirements List (2 Data Items).

253.303-70-DD-1425 DD Form 1425: Specifications and Standards Requisition.

253.303-70-DD-1484 DD Form 1484: Post-Award Conference Record.

253.303-70-DD-1507 DD Form 1507: Department of Defense Work Stoppage Report.

253.303-70-DD-1513 DD Form 1513: United States Department of Defense Offer and Acceptance.

253.303-70-DD-1535 DD Form 1535: Request/Approval for Authority To Advertise.

253.303-70-DD-1547 DD Form 1547: Record of Weighted Guidelines Application.

53.303-70-DD-1567 DD Form 1567: Labor Standards Interview.

53.303-70-DD-1568 DD Form 1568: Labor Standards Investigation Summary Sheet.

53.303-70-DD-1592 DD Form 1592: Contract Cross Reference Data.

253.303-70-DD-1593 DD Form 1593: Contract Administration Completion Record.

253.303-70-DD-1594 DD Form 1594: Contract Completion Statement.

253.303-70-DD-1597 DD Form 1597: Contract Closeout Check-List.

253.303-70-DD-1598 DD Form 1598: Contract Termination Status Report.

253.303-70-DD-1635 DD Form 1635: Plant Clearance Case Register.

253.303-70-DD-1637 DD Form 1637: Notice of Acceptance of Inventory.

253.303-70-DD-1638 DD Form 1638: Report of Excess and Surplus Contractor Inventory.

253.303-70-DD-1639 DD Form 1639: Scrap Warranty.

253.303-70-DD-1640 DD Form 1640: Request for Plant Clearance

253.303-70-DD-1641 DD Form 1641: Disposal Determination/Approval.

253.303-70-DD-1651 DD Form 1651: Industrial Equipment Modernization Program—Post Analysis Report.

253.303-70-DD-1653 DD Form 1653: Transportation Data for Solicitation.

253.303-70-DD-1654 DD Form 1654: Evaluation of Transportation Cost Factors.

253.303-70-DD-1659 DD Form 1659: Application for U.S. Government Shipping Documentation/Instructions.

253.303-70-DD-1662 DD Form 1662: DoD Property in Custody of Contractors.

253.303-70-DD-1664 DD Form 1664: Data Item Description.

253.303-70-DD-1707 DD Form 1707: Information to Offerors or Quoters.

253.303-70-DD-1851 DD Form 1851: Automation Equipment Requirement.

253.303-70-DD-1861 DD Form 1861: Contract Facilities Capital Cost of Money.

253.303-70-DD-1921 DD Form 1921: Cost Data Summary Report.

253.303-70-DD-1921-1 DD Form 1921-1: Functional Cost-Hour Report (page 1).

253.303-70-DD-1921-1: Functional Cost-Hour Report (page 2).

253.303-70-DD-2025 DD Form 2025: Packaging Change Recommendation/Approval.

253.303-70-DD-2051 DD Form 2051: Request for Assignment of a Commercial and Government Entity (CAGE) Code.

253.303-70-DD-2051 DD Form 2051 Reverse: Instructions for Completing DD Form 2051

253.303-70-DD-2051 DD Form 2051-1: Request for Information/Verification of Commercial and Government Entity (CAGE) Code

253.303-70-DD-2051-1 DD Form 2051-1 Reverse: Address Label.

253.303-70-DD-2139 DD Form 2139: Subcontract Report of Foreign Purchases.

253.303-70-DD-2222 DD Form 2222: Short Form Research Contract (SFRC) Modification (Page 1)

253.303-70-DD-2222 DD Form 2222: Short Form Research Contract (SFRC) Modification (Page 2)

253.303-70-DD-2222 Instructions for Completing DD Form 2222

253.303-70-DD-2222-1 DD Form 2222-1: Representations and Certifications From Offerors Submitting Proposals Under DFARS 235.70

253.303-70-DD-2222-1 DD Form 2222-1 Representations and Certifications From Offerors Submitting Proposals Under DFARS 235.70 (Page 2)

253.303-70-DD-2222-2 DD Form 2222-2 Short Form Research Contract Research Proposal Cover Page

253.303-70-DD-2222-2 DD Form 2222-2 Short Form Research Contract Research Proposal (Page 2)

SUBCHAPTER I—AGENCY SUPPLEMENTARY REGULATIONS

PART 270—ACQUISITION OF COMPUTER RESOURCES

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270.1304-2 Federal Software Exchange Center.
270.1304-3 DoD component requirements.
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270.1404 Considerations for use of excess Government-owned or -leased computer equipment.
270.1405 Use of the ADP fund.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

SOURCE: 51 FR 46419, Dec. 23, 1986, unless otherwise noted.

270.000 Scope.

This part prescribes the policies and procedures for Department of Defense (DoD) and its contractors' acquisition of computers, computer components, software, maintenance services, certain other services, and computer supplies. Separate subparts address acquisition when the procurement authority is vested in the General Services Administration, or is within the provisions of 10 USC 2315, or when the acquisition does not fall within the scope of either General Services Administration or 10 USC 2315 authority. ADP protests to GSBCA are covered in FAR Part 33.

Subpart 270.1—General

270.101 Procurement authorities.

(a) *General Services Administration.* Pub. L. 89-306, 40 USC 759, authorizes and directs the Administrator of the General Services Administration to provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment (ADPE) (see Subpart 270.2) by Federal agencies, subject to the fiscal and policy control of the Office of Management and Budget (OMB). Policies and procedures for acquisitions for which procurement authority is vested in GSA are contained in Subpart 270.3.

(b) *10 USC 2315.* Section 908 of the DoD Authorization Act, 1982 (Public Law 97-86) added section 2315 to Title 10, United States Code which provides that the provisions of 40 USC 759 are not applicable to DoD procurements of ADPE systems, components, and services if the function, operation or use (see also Subpart 270.4):

(1) Involves intelligence activities;

(2) Involves cryptologic activities related to national security;

(3) Involves the command and control of military forces;

(4) Involves equipment that is an integral part of a weapon or weapon system; or

(5) Is critical to the direct fulfillment of military or intelligence missions, excluding routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(c) *Other acquisitions of computer resources.* Certain acquisitions do not fall within the scope of either (a) or (b) above. Such acquisitions include computer systems and components, including computer items modified to Government specifications at the time of production, which are specially de-

gned (not configured) to the extent
hat:
(1) They cannot be used to process a
ariety of problems or applications; or
(2) They can only be used as an inte-
ral part of a non-computer system. In
ddition, acquisitions by DoD contrac-
ors, acquisition of printing services
tilizing computer technology, acquisi-
on of computers as an integral part
f a non-computer system, and acquisi-
on of computer support services fall
ithin the scope of these "other acqui-
tions." Policies and procedures for
hese "other acquisitions" are con-
ained in Subpart 270.6 and FAR Sub-
art 8.8.

(d) *Software.* The authority to ac-
uire commercially available software
ee 270.200) is vested in the General
ervices Administration and shall be
quired in accordance with Subpart
70.3 unless within the scope of 10
.S.C. 2315, in which case the com-
ercially available software shall be
quired in accordance with Subpart
70.4.

Subpart 270.2—Definitions

0.200 Scope of subpart.

The definitions in this subpart apply
ly to acquisitions within the scope
Part 270.

*Automatic Data Processing Equip-
ent (ADPE)* means general purpose,
tomatic data processing components
d the equipment systems created
om them, regardless of use, size, ca-
acity or price, that are designed to be
plied to the solution or processing
a variety of problems or applica-
ons and are not specially designed
ather than configured) for any spe-
fic application.

ADP Fund means a financing mecha-
sm administered by GSA and which,
bject to GSA approval, is available
ithout fiscal year limitation for fi-
ancing the acquisition of ADPE and
lated items by lease, purchase, trans-
r, or otherwise.

Agency Procurement Request (APR)
eans a request by a DoD component
r GSA to contract for ADPE, com-
ercially available software, or main-
nance services or for GSA to dele-
te the authority to contract for
ese items.

Benchmark means a problem or series of problems used to evaluate the performance of computers and/or software relative to the contract specifications.

Computer Equipment means electronic devices which perform logical, arithmetic, or storage functions through the use of software.

Commercially Available Software means software developed at private expense and available in the commercial market through lease or purchase (including licensing arrangements) from a concern representing itself to have ownership and/or marketing rights in the software. Software which is furnished as part of the computer but, is separately priced from the computer, is included in this category.

Conversion Costs means those costs that are directly related to the conversion from installed computer resources to replacement computer resources. In addition to project management costs, conversion costs shall include, but are not limited to:

(a) Conversion of the following software by reprogramming, recoding, or translation:

(1) Existing software written in Federal standard or other ANSI standard higher-level language;

(2) Application software written in assembly or other nonstandard languages that will continue to meet essential agency mission needs without redesign, provided that continued use of the nonstandard software can be justified and the file is documented with the justification prior to incorporation into the software conversion study;

(3) Mission-essential application software to be developed for operational use before the replacement is installed (or before commercial computer services are procured), provided the software is written in Federal standard or other ANSI standard languages;

(b) Conversion of data bases, data base design changes, and data base management systems to the extent necessary to permit the continued use of existing application software;

(c) Firmware required solely to permit the continued use of application software;

(d) Site preparation and modifications to installed environmental controls;

(e) Parallel operation of the old system during the conversion process, including offsite data processing support;

(f) Travel and training expenses, including pay and fringe benefits of Government employees during attendance at formal classroom training courses; and

(g) Other general and user expenses directly related to the conversion effort; e.g., conversion planning, preparation and management, additional supplies, and any additional general-purpose software required to support the conversion.

Delegation of Procurement Authority (DPA) means a written notification from GSA to a DoD component in response to an APR, granting contracting authority to the DoD component.

Equipment Technology Update means an acquisition resulting from an obsolescence review of an ADPE system which establishes that it would be more economic and efficient over the remaining systems life to replace some or all components of that system. This type of acquisition does not necessarily require a current requirements analysis or software conversion study.

Evaluated Optional Features means those contractual conditions and technical requirements which are established in the solicitation but which do not have to be bid (offered) in order to be responsive (acceptable). Each evaluated optional feature in the solicitation must reflect its relative value to the Government.

Maintenance Services means those examination, testing, repair, or part replacement functions performed to:

(a) Reduce the possibility of malfunction (preventive maintenance);

(b) Correct a malfunction (remedial maintenance); or

(c) Modify in a minor way (field engineering change or field modification).

Noncompetitive Procurement means a procurement for which the minimum needs are so restrictive that there is only one known manufacturer capable of satisfying the minimum needs. Included in this type of procurement are:

(a) Sole source procurements; and,

(b) Specific make and model procurements (notwithstanding the fact that there may be more than one bid (offer) thus creating price competition).

Obsolescence Review means a review to determine whether existing computer resources are economically or technically obsolete. Indications of economic and technical obsolescence include:

(a) Maintenance service or parts are becoming unavailable or are no longer being provided by the original equipment manufacturer (OEM);

(b) An operating system is or will no longer be supported by the OEM;

(c) Degradation in equipment reliability;

(d) Maintenance costs are accounting for an increasingly greater portion of operating costs;

(e) Energy consumption, including necessary environmental control, is relatively high;

(f) System throughput and processing turn-around are too slow, and flexibility is limited for the mission requirement;

(g) The equipment is two or more production cycles behind the present product line.

Remote Terminal Emulation means a means of evaluating the teleprocessing performance of an ADPE system by use of components external to the ADPE system under evaluation. Workload is introduced to the ADPE system by components external to the ADPE system and the performance of the ADPE system is recorded for evaluation to determine the teleprocessing performance of the ADPE system.

Software means a series of instructions, in a form acceptable to a computer, which causes a computer to perform specified operations.

Software Conversion Study means a study of the effort and costs required to convert software from the existing computer system to the replacement computer system.

Specifications means specifications for the acquisition of computer resources. Such specifications may consist of one or more of the following types:

(a) *Brand-name or equal.* The purchase description refers to one or more specific commercial products identified by brand name and make or model number or other appropriate nomenclature by which such products are offered for sale to the public by the particular manufacturer, producer, or distributor. These purchase descriptions should set forth those salient physical, functional, or other characteristics of the brand name product(s) which are essential to meet the needs of the Government. Prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if such other products will meet the needs of the Government in essentially the same manner as those referenced.

(b) *Equipment performance requirements.* A statement of those minimum use output requirements such as the amount of data that needs to be stored or processed within a given time and operational reliability, supplemented to the extent necessary with hardware factors (devoid of as much specific vendor orientation as possible) such as, cycle time, computing speed, tape read and/or write speed, printer speed, size of memory, expandibility (modularity), and related software which are a measure of the operating capability of equipment and which, when applied to the functional specifications, provide a quantitative measure of the operating time and capacity required to process the applications involved on that equipment.

(c) *Functional specifications.* The delineation of the objectives which the system is intended to accomplish and the data processing requirements underlying that accomplishment. A description of the data processing requirements should include a description of the data output and its intended uses, the data input, the data files and record content, the volumes of data, the processing frequencies, timing, and such other factors as may be necessary to provide a full description of the system.

(d) *Plug compatible.* A plug (plug-to-plug) compatible purchase description is similar to a brand name or equal purchase description. The purchase description refers to one or more specific commercial products identified by brand name and make or model number or other appropriate nomenclature and sets forth those salient physical, functional, or other characteristics of the brand name product(s) which are essential to meet the needs of the Government. Unlike an item offered under a brand name or equal purchase description, a plug compatible item need not perform its functions in essentially the same manner as the referenced product; however, it must perform the same functions as the referenced product.

(e) *Specific make and model.* A purchase description under which only a specific manufacturer's make and model (or other appropriate nomenclature by which such products are offered for sale to the public by the particular manufacturer, producer, or distributor) is acceptable.

Systems or Items Life means a forecast or projection of the period of time that begins with the installation of the systems or items and ends when the need for such systems or items has terminated. Systems or items life is established by the Government on the basis of requirements and is usually set forth in the solicitation. Systems or items life is not necessarily synonymous with the actual life of the systems or items.

Subpart 270.3—Acquisitions Under General Services Administration (GSA) Authority

270.300 Scope of subpart.

This subpart sets forth policies and procedures for contracting by the Department of Defense for automatic data processing equipment, commercially available software, maintenance services, and certain other services and supplies, when procurement authority is vested in the General Services Administration (GSA).

270.301 Policy.

(a) Pub. L. 89-306, 40 U.S.C. 759, authorizes and directs the Administrator of the General Services Administration to provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment (ADPE) by Federal agencies, subject to the fiscal and policy control of the Office of Management and Budget (OMB). The statute specifically provides that the authority conferred upon the Administrator of the General Services Administration shall not be construed as to impair or interfere with the determination by agencies of their individual requirements or the use made of ADPE or components thereof by any agency.

(b) The authority cited in (a) above does not extend to those acquisitions described in 270.101 (b) and (c). These acquisitions shall be accomplished in accordance with 270.4 and 270.5.

270.302 Procurement authority.

This section prescribes the applicable procedures when procurement authority is vested in the General Services Administration.

270.302-1 Application.

When a requirement exists for ADPE, commercially available software, or maintenance services, as defined in 270.2, an Agency Procurement Request (APR) must be submitted to the GSA prior to the initiation of any contract action, unless the requirement meets an exception set forth below. In response to an APR, the GSA may contract or issue a Delegation of Procurement Authority (DPA). For the procedures to be followed in submitting the APR, see 270.303-1. At the option of the DoD Component, abbreviated procedures promulgated by GSA may be substituted for those described herein.

270.302-2 Exceptions.

Contracts may be made without the prior approval of the GSA under the following conditions:

(a) *Automatic data processing equipment.* Except for contracts involving the GSA ADP Fund (see 270.321), excess leased ADPE (see 270.14), or the acquisition of hardware monitors for measuring computer system performance, DoD may contract for ADPE without prior approval of GSA,
provided that at least one of the fol
lowing conditions is met:
(1) The contract will occur by plac
ing a delivery order against an applica
ble GSA requirements contract;
(2) The contract will occur by plac
ing a delivery order against a GS
Schedule contract, provided that:
(i) The order is placed under th
terms and conditions of the contract;
(ii) The order is within the max
mum order limitation (MOL) of th
applicable contract;
(iii) The total purchase price of th
item(s) covered by the order does no
exceed $300,000.
(Note: Even though the item(s) ar
to be rented or leased, the purchas
price shall be used to determine if th
dollar value of the order falls withi
the $300,000 threshold); and
(iv) The requirements set forth i
270.314 on the use of GSA Schedul
contracts for ADP are met; or
(3) The value of the contract doe
not exceed:
(i) $2,500,000 purchase price, o
$1,000,000 annual rental charge (in
cluding attendant maintenance costs
for a competitive procurement;
(ii) $250,000 purchase price, o
$100,000 annual rental charge (includ
ing attendant maintenance costs) for
noncompetitive procurement.
(4) The acquisition is an "equipmen
technology update" (see 270.2) actio
resulting from a comparative co
analysis made in connection with a
obsolescence review (see 270.2) if:
(i) The situation reviewed was limit
ed to processing existing workload o
installed old technology equipment;
(ii) The resulting technology updat
capability will not exceed the reviewe
old technology capability by mor
than 50 percent;
(iii) An immediate increase in econo
my and efficiency can be realized with
out significant disruption in the con
tinuing satisfaction of the need; and
(iv) Either (A) no new, replacement
or augmented equipment system i
known or planned beyond the existin
system life for the reviewed ADP
equipment system or (B) a new, re
placement, or augmented equipment
system has been identified and is de
finitively planned for acquisition
action on a competitive basis, but the

contract award will be far enough in the future to allow significant economy and efficiency to be realized in the interim period.

(b) *Software.* After compliance with 270.1304, DoD may contract for commercially available software, including software performance monitoring packages, for use with ADPE without approval of GSA or the Federal Computer Performance Evaluation and Simulation Center (FEDSIM), provided that at least one of the following conditions is met:

(1) The contract will occur by placing a delivery order against an applicable GSA requirements contract;

(2) The contract will occur by placing a delivery order against an applicable nonmandatory GSA Schedule contract under the terms and conditions of that contract;

(3) The procurement is to be made by normal solicitation procedures and the total value of the procurement, for the specific software package(s), does not exceed:

(i) $1,000,000 for competitive acquisitions; or

(ii) $100,000 for noncompetitive acquisitions; or

(4) The software is provided with and is not separately priced from the ADPE.

(c) *Maintenance services.* The DoD may contract for maintenance services without approval of GSA when:

(1) Such services are available under the terms and conditions of an applicable GSA Schedule contract; or

(2) The maintenance charges do not exceed $1,000,000 annually for a competitive procurement, or $100,000 annually for a noncompetitive procurement.

(d) *Services.* GSA approval is not required for other services. (But see 270.8 for use of the GSA Teleprocessing Services Program.)

270.303 Contracting procedures.

This section sets forth the procedures for performing contracting when procurement authority is vested in the GSA. Prior to issuance of the solicitation, the contracting officer shall insure that a DPA has been obtained, or that the acquisition falls within one of the exceptions.

270.303-1 Submission(s) of agency procurement requests (APR).

If it is determined that the conditions of the contemplated contracting action are not covered by the blanket delegation of contracting authority provisions of 270.302, or if the conditions of the action change during the contracting process so that those provisions become inapplicable, two copies of the APR and other applicable documents shall be forwarded to the General Services Administration (KMA), Washington, DC 20405. The APR shall be signed by an official who has been authorized to initiate the acquisition action. In addition, the APR shall contain the name and telephone number of an individual within the DoD Component who shall act as the point of contact for GSA. The APR shall include, as applicable:

(a) *DoD Component information.* DoD Component name, address, names and telephone numbers of appropriate officials.

(b) *Project title and description.*

(1) Name or designation of the ADPE system.

(2) Description of the requirement. Indicate whether it is a new, an addition to, or a modification of a current ADPE system.

(3) Estimated system/item life.

(4) Estimated system/item life cost.

(5) Locations (city and state) which require user access to the ADPE system or where the equipment is to be installed, if appropriate.

(6) Fiscal year and quarter during which the solicitation is expected to be released.

(7) Expected contract award date.

(c) *Contracting action planning.*

(1) Budgeted value of the acquisition in the request to OMB, indicating whether implicitly or explicitly described, including fiscal year involved.

(2) A summary of the alternatives considered to meet the requirement, the related costs and the basis for the alternative(s) selected.

(3) If the GSA Teleprocessing Services Program (TSP) is used as the source of supply, indicate the contracting arrangement comtemplated (Multiple Award Schedule (MAS) or

Basic Agreement (B/A), and type (full, interactive, or remote batch)).

(4) Conclusions of the performance evaluation for the currently installed ADPE system, when applicable.

(5) A statement that available resources have been screened and none are available to satisfy the requirement.

(6) Documentation regarding telecommunications, when applicable.

(7) Conclusions of the software conversion study, when applicable.

(8) Unique software, maintenance, and support requirements, if any.

(9) Evidence that site construction/modification by GSA is or is not required. One of the following statements shall be used for this purpose:

(i) The acquisition of this equipment will not require site construction or modification by GSA; or

(ii) The acquisition of this equipment will require site construction/modification by GSA which must be completed by (*date*) and notification and information, as applicable, has been/will be submitted to GSA on (*date*).

(10) One of the following statements regarding the Privacy Act of 1974:

(i) Equipment or services identified by this request will not be used to operate a system of records on individuals to accomplish an agency function.

(ii) Equipment or services identified by this request will be used to operate a system of records on individuals to accomplish an agency function and all applicable provisions of the Privacy Act have been complied with.

(11) A brief description of the primary agency programs that the equipment or services will support.

(12) Computer security requirements, where applicable, as certified by the responsible official.

(d) *Acquisition strategy.*

(1) Description of conversion management planning actions.

(2) Type of specification.

(3) The basis and documentation to support the use of brand name or equal, plug compatible, or specific make and model specification, when applicable (see 270.2).

(4) The basis and documentation to support a contemplated noncompetitive action, when applicable. Specifically, the justification must address:

(i) The critical service, unique features, or mandatory requirements dictated by the intended use that limits the acquisition to a noncompetitive procurement (the overriding necessity of these competition-limiting requirements shall be clearly identified);

(ii) The steps taken which led to the conclusion that no other known or probable source of supply exists; and

(iii) The factors which preclude the development of specifications or the determination of the requirement in a form suitable for competition.

(5) The documentation to support a dedicated teleprocessing system strategy, when applicable.

(6) If the GSA TSP is used as the source of supply, source selection information, as follows:

(i) List of requirements (mandatory and evaluated optional features, if any);

(ii) Other elements to be evaluated;

(iii) Summary description of any benchmark and the method for developing cost information from the benchmark results, or a description of how cost information will be determined if a benchmark is not used; and

(iv) The method to be used for combining all cost elements to determine the lowest overall system-life cost.

(7) If remote terminal emulation is to be used, provide justification as set forth in 270.320.

(e) *Exceptions or deviations.* Provide a statement that all applicable regulations have been reviewed and complied with, or identify and justify deviations.

(f) *Remarks.* Provide additional information concerning any of the above items or other special conditions associated with the action deemed necessary for understanding of the APR.

(g) *References.* Provide references to relevant past GSA authorizations, meetings, telephone discussions, etc.

(h) *Supplemental submissions.* If prior to award, the requirement or any of the contract planning or strategy elements of an APR change materially from data submitted in the APR, irrespective of whether before or after authorization is received from GSA to proceed, promptly provide a supplementary APR submission to GSA containing pertinent information and referencing the basic APR.

270.303-2 GSA action on APR.

(a) After review of the APR and the documentation submitted, and subject to the right of the DoD Component to determine its individual ADPE, commercially available software, and maintenance requirements, including the development of specifications for and the selection of the types and configurations of equipment needed, the Assistant Administrator for Information Resources Management, GSA or his designee, will:

(1) Delegate to the DoD Component authority to contract;

(2) Delegate to the DoD Component the authority to contract and provide for GSA participation in the contracting to the extent deemed necessary under the circumstances; or

(3) Provide for the contracting by GSA, or otherwise obtain the requirement on behalf of the DoD Component.

(b) A copy of the APR and the GSA response and other related documentation prescribed by the DoD Component shall be made a part of the contract file. Action will be taken by GSA within 20 workdays after receipt of full information contained in an APR or supplement thereto. Upon expiration of this 20-workday period plus 5 calendar days for mail lag, the DoD Component may proceed with the acquisition as if a DPA had, in fact, been granted. This 20-workday period is subject to written modification by GSA in the event that, after review of the APR data, it is found not to contain the full information required. To establish a common understanding of the 20-workday period, GSA will provide written verification within this period that identifies the date of receipt of the APR or supplemental data. In the event that unusual circumstances surrounding the acquisition dictate that a longer period of time is required for GSA to complete its appraisal, it will so notify the DoD Component and, under these circumstances, the automatic DPA rule shall not apply.

(c) APR submissions to GSA are not required to exercise a renewal option within the systems life of a previous authorization.

(d) Changes within the scope of a change provision in the contract do not require an additional DPA (including purchase orders under the Multiple Award Schedule (MAS) or contracts using the Basic Agreement (B/A) in the TSP). Any changes shall be within the systems life of the requirement as specified in the APR. A new DPA is required when requirements exceed the contract quantities (including options) by more than 25 percent.

270.303-3 GSA contracting for DoD.

When GSA acquires ADPE or related items for DoD, the contracting is a joint endeavor. In this case the DoD Component shall:

(a) Submit documentation to GSA including the requirement, systems or items life, the technical specification, and justification to support contracting on an other-than-full and open competition basis, if applicable;

(b) Prepare the technical portion of the solicitation and define any unique requirements;

(c) Provide necessary technical personnel (and contracting personnel, if desired) as members of the contract negotiating team;

(d) Prepare a selection plan and submit it to the GSA contracting officer prior to issuance of the solicitation;

(e) Evaluate proposals from a technical point of view and arrange for offerors' oral presentations, when appropriate;

(f) Provide copies of correspondence to the GSA contracting officer when authorized to communicate directly with offerors;

(g) Determine the technical capability of the items offered to meet the requiring activity's requirements, technical specifications, and systems or items life. This responsibility shall include the determination of whether the proposals are technically acceptable or unacceptable. The results of these determinations shall be transmitted to the GSA contracting officer to enable the contracting officer to take appropriate action with the offerors;

(h) Select the lowest overall cost item(s) and transmit this information with the necessary supporting documentation to the GSA contracting officer. In the event a conclusive judgment cannot be made on the basis of lowest overall cost, a determination and findings to this effect shall be prepared before any other factors are used as a basis for selection;

(i) Provide the following administrative information to the GSA contracting officer along with the data required in (h) above:

(1) Finance data (e.g., paying office, and fund citation);

(2) Contract distribution list and addresses; and

(3) Identity of the successor contracting officer.

(j) Assist the GSA contracting officer in debriefing offerors, when debriefings are requested;

(k) If required, place the delivery order(s);

(l) Accomplish any other task not included above which will further the joint contracting objective or expedite completion of the contract action at the DoD Component's discretion and with GSA concurrence; and

(m) Administer the contract in accordance with the terms and conditions thereof.

270.304 Small purchases.

The provisions of Part 213 apply when the aggregate amount of any one requirement for ADPE, commercially available software, or maintenance services does not exceed $25,000 annually. ADP schedule contracts may be used to procure FSC Group 70 items.

270.305 Restrictions on the use of simulation in the ADPE contracting process.

(a) Data structured for simulation purposes shall not be the only means of describing data processing requirements in solicitation documents. Simulation data shall be accompanied by a narrative description of the objectives, workload, and any available application logic diagrams.

(b) Solicitation documents should not be structured in such a way as to require offerors to use a specific computer system simulator in order to submit their offers. When offerors submit computer simulation as part of their offers, they shall be required to describe clearly the simulation used and the make and model of the computer on which the simulation was run.

(c) Offers should not be considered nonresponsive or unacceptable solely on the basis of simulation results.

(d) Procedures for simulation and computer performance evaluation services are prescribed in Departmental procedures.

270.306 Publicizing contract actions.

(a) To ensure that appropriate competition is obtained,. synopses of proposed contracts for ADPE, commercially available software, and maintenance services shall be publicized in the Commerce Business Daily (CBD) in accordance with the provisions of FAR Part 5, and 205.2, 270.314, and 270.315 of this supplement. The exception of FAR 5.202(a)(6) does not apply to the use of GSA nonmandatory ADP Schedules.

(b) The GSA centralized Bidders Mailing List (BML) for Federal Supply Classification (FSC) Group 70 may be used for competitive ADPE and commercially available software and maintenance service acquisitions. DoD Components may obtain the GSA BML by a written request to the General Services Administration (8BR), Building 41, Denver Federal Center, Denver, Colorado 80225. The request shall include the applicable class and BML code number(s), listed below:

7010-0001	ADPE System Configuration
7020-0001	ADP Central Processing Unit (CPU, Computer), Analog
7021-0001	ADP Central Processing Unit (CPU, Computer), Digital
7022-0001	ADP Central Processing Unit (CPU, Computer), Hybrid
7025-0001	Memory-Magnetic Storage
7025-0002	Magnetic Tape Subsystems
7025-0003	Magnetic Disk Subsystems
7025-0004	Printers, High Speed (ADP)
7025-0005	Paper Tape Devices
7025-0007	Interactive Display
7025-0008	Interactive Graphics
7025-0009	Interactive Hard Copy
7025-0010	Other ADP Input/Output and Storage Devices

7030-0001	ADP Software—Operating System
7030-0002	ADP Software—Application Programs
7030-0003	ADP Software—Data Base Management Programs
7030-0004	Other ADP Software
7035-0001	ADP Support Equipment
7040-0001	Punched Card Equipment
7045-0002	ADP Supplies
7050-0001	ADP Components

The GSA BML may be used for subsequent contracting for items in the class and BML code, provided the solicitation is released to industry within 90 days following receipt of the BML in question.

(c) 41 CFR 150 [1] shall be cited as the authority for the request. For further information concerning the above classes, DoD Components should contact General Services Administration (KEC), Washington, DC 20405.

(d) To contract for ADP maintenance services, agencies may obtain the GSA BML for Standard Industrial Group 0739, BML Code 4, by written request to the addressee indicated in (b) above. 41 CFR 150 [1] shall be cited as the authority for requesting the BML.

(e) Maximum advantages shall be taken of the latest technological advances in the ADPE field to ensure that the Government's needs are met at the lowest overall cost. To encourage industry to offer proposals which permit the Government to take full advantage of technology and to ensure that specifications are clear and complete, DoD Components may provide proposed specifications to industry for comment prior to formal solicitation. A copy should be furnished to all prospective offerors scheduled to receive the solicitation. Industry should be given a minimum of 30 calendar days to submit written comments and at least 60 days for complex acquisitions. Comments and the disposition thereof shall be retained in the contract file.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

270.307 Evaluation factors.

(a) Solicitations shall identify all factors, including conversion costs, that will be considered in the evaluation of offers. The evaluation factors shall be applied to the mandatory technical requirements and the evaluated optional features (e.g., specific software packages, compatible input-output devices), where applicable. Where evaluated optional features are included in a solicitation, their value to the Government shall be expressed in dollars, points, or any other reasonable indicator as an evaluation factor.

(b) While acquisition price is usually considered to be the most significant factor, the circumstances of a particular acquisition may require that other additional factors be taken into consideration. These include, but are not limited to:

(1) Technical approach;

(2) Previous experience in complex acquisitions;

(3) Management organization;

(4) Prior success at satisfying technical and delivery requirements;

(5) Post-award support capability;

(6) Ability to deliver technologically current software; and

(7) Maintenance costs.

Contracting officers shall ensure that these and all other relevant factors, as required by other parts of this subpart, are clearly stated in the solicitation along with their relative importance.

(c) Unless waived in accordance with Departmental procedures, the contracting officer shall solicit and evaluate, over the projected systems life, all forms of financing an acquisition. These include:

(1) Purchase.

(2) Lease: Vendor retains title to the item throughout system's life.

(3) Lease With Option to Purchase (LWOP): The Government leases items with options to purchase at a later date.

(4) Lease to Ownership Plan: The Government leases items for a specified period in accordance with applicable funding statutes after which lease payments cease and title is transferred to the Government. When solicitation of these various financing methods is

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[1] Editorial Note: Regulations republished in 41 CFR Chapter 201 at 49 FR 20994, May 17, 1984.

appropriate, offerors may submit any or all of them. The contract file shall be documented with the results of the analysis performed on the financing methods received.

(d) Other factors to be considered in evaluating proposals include:

(1) Residual value of purchased ADPE at the conclusion of systems life.

(2) Present value of money (discounted for the systems life) in accordance with procedures established by the DoD Components.

270.308 Commercially available software contracts.

When acquiring commercially available software, contracting officers should have the following objectives:

(a) Avoid restrictive clauses that limit the use of the software to a specific system, installation, or organization;

(b) Incorporate a clause that will permit other Government agencies to obtain the software under the contract being negotiated;

(c) Obtain additional quantity discounts should any other Government agency acquire the same software under the contract; and

(d) Ensure that the contractor is contractually obligated to support and maintain the software in subsequent years.

270.309 Determination of selection factors.

The prices offered for the systems or items life and conversion costs, whether based on prices offered or a Government estimate, shall be included in determining the lowest overall cost. Determination of system/item life is optional for a system/item with a purchase price of $25,000 or less; however, this does not apply if the system/item is to be leased or rented. The following are examples of other factors to be considered:

(a) Economic benefits clearly attributable to increased productivity.

(b) Direct savings that would accrue from the release of rented ADPE, discontinuance of services, or reduction in energy or telecommunications costs.

(c) Indirect savings derived from reductions in other than ADPE or service costs, such as space and/or personnel support expenses.

(d) Benefits from implementing new applications which otherwise would have to be deferred.

(e) Economic advantages resulting from providing the capability to accommodate projected increases in workload without contracting for further augmentation, replacement of the ADPE, or acquisition services.

(f) Potential savings due to the availability of software already developed and available from the Federal inventory or commercial marketplace that could be used to meet additional requirements.

(g) Proven reliability of the equipment and operating system software in similar operating environments.

(h) The continued availability of operating system software support and maintenance services beyond the initial system/item life that would enhance the probability of reutilization of the ADPE within the Government.

(i) The potential for supporting other agencies through the ADP sharing program.

270.310 Contract clauses.

In addition to the other clauses required by the FAR or the DoD FAR Supplement, the clauses prescribed below shall be used in all solicitations and contracts for ADP equipment, software and maintenance services and certain other services for which GSA has delegated procurement authority either by DPA or by regulation.

(a) *Warranty exclusion and limitation of damages.* The contracting officer shall insert the clause at 252.270-7001, Warranty Exclusion and Limitation of Damages, in solicitations and contracts for ADP equipment, commercially available software, maintenance, and related supplies, unless the contracting officer determines that a higher degree of protection is in the best interest of the Government.

(b) *Contractor representation.*

The contracting officer shall insert the clause at 252.270-7002, Contractor Representation, in solicitations and contracts for ADP equipment items or systems when the Government's requirement is set forth in whole or part by functional specifications and the contract amount is expected to exceed $100,000.

(c) *Fixed-price options.*

(1) The use of option(s) to extend the contract period and/or to acquire additional quantities may be in the best interest of the Government when the conditions of FAR 17.206 are met. The evaluation of options motivates price competition on a system/item life basis and eliminates the long-term effects of a buy-in. One-time charges (startup and other nonrecurring costs), such as documentation, manuals, initial training requirements, etc., may be significant for a particular solicitation. An offeror may intend to absorb some portion of these costs or may plan to recover (amortize) them in possible "follow-on" awards. Incumbent offerors could enjoy a competitive advantage since it may not be necessary to recover them in a single contract. In addition, offerors with relatively broader markets and/or stronger financial resources tend to have greater flexibility with respect to any one individual procurement action. The evaluation of system/item life prices promotes greater competition by evening out these advantages and encourages lower system/item life pricing.

(2) *Separate charges.*

(i) When considering options, care should be exercised in making the distinction between: (A) discontinuance charges (i.e., termination settlement compensation including negotiated contractual payment provisions) for discontinuance during the initial contract period or during an exercised option period, (B) separate charges for the Government's failure to exercise an option to extend the contract term or to acquire additional quantities, and (C) contracting for evaluated optional features, which is outside the scope of this subsection.

(ii) A payment that reflects the addition of a separate charge to a contract price is illegal if the charge, when added to the contract price, exceeds the amount that reasonably represents the value of bona fide fiscal year requirements. (See 31 U.S.C. 665a, 31 U.S.C. 712a, and 41 U.S.C. 11). To preclude the payment of these illegal charges (because of the nonexercise of options), when options are to be incorporated into a contract, separate charges in any form shall not be solicited and offers containing any charges for the Government's failure to exercise any option will be rejected as provided by the clause entitled "Fixed-Price Options" prescribed below.

(3) *Discontinuance of lease/rental of equipment or software.* When the Fixed-Price Options clause is used, the Government and the contractor may find it mutually advantageous to incorporate a special provision containing specific notice and settlement terms to cover discontinuance of rental of equipment or software during the contract period. The clause entitled "Discontinuance of Rental and Repricing" (see example at 252.270-7007) may be used for this purpose. The special "Discontinuance of Rental and Repricing" clause provides notice of discontinuance and settlement payment terms. A means is provided to determine those charges within a ceiling that ensures that the value of the discontinued requirement and the contract value of the requirement for the revised contract period are reasonable. It provides the opportunity for a lower price by covering the risk of discontinuance with specified repricing provisions. Neither the incorporation of this clause in the contract nor the calculation and comparison of potential discontinuance charges shall be considered an evaluation factor.

(4) The contracting officer shall insert the clause at 252.270-7003, Fixed-Price Options, in solicitations and contracts when a fixed-price contract is contemplated; the solicitation is for ADP equipment, commercially available software, or maintenance services requirements that will extend beyond the initial fiscal year; and an option to extend the contract period and/or to acquire additional quantities may be in the best interests of the Government. When the Fixed-Price Options clause is used, the solicitation shall also specify:

(i) The system/item life;

(ii) The present-value-methodology, including payment schedule, that will be used for purposes of award evaluation; and

(iii) The option periods of performance and option quantities, as appropriate.

(d) *Option to extend the term of the contract.*

The contracting officer shall insert the clause at 252.270-7004, Option to Extend the Term of the Contract, in solicitations and contracts when the clause at 252.270-7002, Fixed-Price Options, is used.

(e) *Option for increased quantities.*

The contracting officer shall insert the clause at 252.270-7005, Option for Increased Quantities, in solicitations and contracts when the solicitation includes the provision at 252.270-7003, Fixed-Price Options, and the known requirements exceed the basic quantity to be awarded (also see FAR 17.2).

(f) *Discontinuance repricing.*

The contracting officer may insert the provision at 252.270-7006, Discontinuance Repricing, in solicitations when a fixed-price contract is contemplated and conditions in 270.310(c)(3) are applicable. The provision contains boxes that provide the offeror an election to agree to or decline the inclusion of the clause at 252.270-7007, Discontinuance of Rental and Repricing.

(g) *Discontinuance of rental and repricing.* The contracting officer shall insert the clause at 252.270-7007, Discontinuance of Rental and Repricing, when the solicitation includes the provision at 252.270-7005, Discontinuance Repricing (also see 270.310(c)(3)).

270.311 Use of GSA regional support services contracts.

GSA establishes and makes available for the use of other agencies a variety of regional ADP support services contracts. These contracts may include such areas as software development and programming, production of computer-output microfilm, and data entry. DoD Components should consult with their GSA/OIRM regional office to determine the scope and availability of these contracts. These sources of supply should be used if it is determined that they will meet the user's need at the lowest overall cost, price and other factors considered. The following information is generally descriptive of these contracts:

(a) These regional requirements contracts are mandatory for the GSA and the contractor. They are optional for use by DoD Components whose requirements fall within the scope of these contracts.

(b) DoD Components that wish to use these contracts have the responsibility to develop, jointly with GSA regional personnel, a statement of their work and deliverables. The GSA regional personnel serve as contract administrators on the contracts.

(c) Task orders are negotiated by GSA and the Component with vendors based upon services and deliverables specified by the requesting component. GSA contract administrators ensure that contract provisions are met and services are delivered as negotiated.

(d) DoD Components reimburse GSA through the ADP Fund for services received under the requirements contracts.

270.312 Contracting for ADP supplies.

ADP supplies shall be contracted for in accordance with the following procedures:

(a) EDP tape and instrumentation tape—the provisions of FAR 8.404 apply.

(b) Tabulating machine cards—the provisions of FAR 8.404 apply.

(c) Marginally punched continuous forms—the provisions of FAR 8.802 apply.

(d) Other ADP supplies—the provisions of FAR 8.404 apply in the event the supplies are included in either mandatory or nonmandatory Federal Supply Schedules.

270.313 Use of GSA schedule contracts for certain ADP related equipment.

Certain specific key-strike function-limited office information resources equipment, not defined as ADPE, is available under GSA nonmandatory ADP schedule contracts. The provisions of 270.314 apply to these equipment items classified under Federal Supply Classification (FSC) 7435, except that a DAP is not required.

270.314 GSA nonmandatory schedule contracts.

A large number of items of ADPE, commercially available software, and maintenance services are available under nonmandatory GSA Schedule contracts, subject to the following:

(a) *General.* When a nonmandatory schedule contract is used, a specific Delegation of Procurement Authority from GSA is not required even though the order may be for a noncompetitive requirement; however, the existence of nonmandatory ADP Schedule contracts shall not eliminate the requirement for maximum practicable competition in acquiring ADPE, commercially available software or maintenance services. Requirements shall be synopsized in accordance with 270.315. Also, the availability of items under ADP Schedule contracts shall not detract from acquiring the items, including peripheral equipment or items for augmenting an existing system, from a number of different sources if this action is in the best interest of the Government. Suitable equipment must be considered whether or not this equipment is on an ADP Schedule contract. All schedule contracts that might satisfy the requirement shall be considered; or, the acquiring activity may choose to prepare a solicitation to secure goods or services at lower overall costs to the Government. Costs of the contracting process should be considered. If ADPE, commercially available software or maintenance services are acquired under an ADP Schedule at other than the lowest delivered price available for identical or similar items under any other ADP Schedule contract, DoD Components shall justify the action and retain the justification and supporting data in the contract file. The following are examples of factors that may be used in support of such justifications:

(1) Special features of one item, not provided by comparable items, are required for effective program performance.

(2) An actual need exists for special characteristics to accomplish identified tasks.

(3) It is essential that the item selected be compatible with items or systems already being used.

(4) Time of delivery in terms of actual need cannot be met by a contractor offering a lower price.

(5) Greater maintenance availability, lower overall maintenance costs, or the elimination of problems anticipated with respect to machines or systems, especially at isolated use points, will produce savings in the long run which are greater than the difference in prices.

(b) *Initial acquisition of ADPE.*

(1) Whether for purchase, lease or rental, orders for ADPE may be placed under ADP Schedule contracts, *provided* that:

(i) The purchase price of the items covered (even though they are rented or leased) does not exceed $300,000; and

(ii) Requirements are synopsized in the CBD in accordance with 270.315, and either;

(A) No response is received to such notice. The contract file shall be documented accordingly; or

(B) The only interest expressed in response to the synopsis is to satisfy the requirement under the terms of an existing ADP schedule contract. The file shall be documented with evidence that use of the selected ADP schedule contract, including the method of financing (e.g., purchase, lease) is the lowest overall cost alternative, price and other factors considered.

(2) Whether for purchase, lease or rental, if a response(s) to the synopsis issued in accordance with (1)(ii) above indicates an intention to offer terms, conditions, or prices not contained in ADP schedule contracts, the requirement shall be met using the policy and procedures of FAR Part 6.

(c) *Continued lease or rental of installed ADPE and software.*

(1) GSA Schedule contracts may be used for the continued lease or rental of installed equipment and software.

(2) A DPA must be obtained before issuing the annual renewal if the ADP Schedule price of the Central Processing Unit (CPU) exceeds $300,000 and the synopsis results conducted in accordance with 270.315 indicate that it is available from a source other than the schedule contract.

(d) *Conversion from lease to purchase of installed ADPE.* A specific delegation of procurement authority must be obtained from GSA before issuing an order to purchase ADPE with a net purchase price of more than $300,000 when identical, i.e., specific make and model, or suitable substitute equipment is available from a source other than the schedule contractor. Requirements shall be synopsized in accordance with 270.315.

(e) *Acquisition of commercially available software and maintenance services.* Orders may be issued for these services, provided that the contract file supports use of the Schedule contract as being in the best interest of the Government. Requirements shall be synopsized in accordance with 270.315.

270.315 Synopsis of GSA schedule actions.

(a) Orders must be synopsized in accordance with FAR Part 5. GSA has determined, after having consulted with OFPP and SBA, that standard dollar thresholds and waiting periods are neither reasonable nor appropriate for acquisition of ADP under GSA Scheduled. Accordingly, a threshold of $50,000 rather than $10,000 is applicable, and a 15 calendar day waiting period rather than 30 calendar days shall be used. As a minimum, the synopsis shall include the description of the item(s) required, quantity, delivery date and location, period of lease/rental, if applicable, and any other information to assist vendors in responding to the synopsis. The synopsis shall indicate that no contract award will be made on the basis of quotations/proposals or other information received in response to the notice since the synopsis of intent to place a delivery order against a schedule contract cannot be considered a request for quotations/proposals. If, however, the only responses to a CBD notice of intent to place such an order are from vendors offering use of their schedule contracts, and technical acceptability can be established by examination of contractor literature, then the contracting officer may place a delivery order in accordance with 270.314.

(b) The schedule order synopsis technique provides DoD Components with both the GSA negotiated schedule prices (derived from discounting prices in the competitive commerc marketplace) and additional produ and cost information as might be su mitted by offerors in response to t CBD notification. It is critical that t synopsis process, if used to determi the feasibility of placing a delive order against an ADP Schedule co tract, elicit sufficient information f the contracting officer to determi the need to prepare a formal solicit tion. If responses indicate that solic ing is desirable or required, the co tracting officer:

(i) If solicitation is for the purpo of comparing proposals with AD Schedule contracts, *shall ensure* th terms and conditions of the solicit tion are substantially the same those contained in the Schedu contract(s) contemplated for use. Th vendor(s) having the ADP Schedu contract(s) shall be included as addressee(s) of the solicitation since often is interested in furnishing r quired items by use of locally awarde contracts. This procedure will perm the vendor(s) to further discou Schedule prices since GSA does n consider this to be a price reductio requiring subsequent adjustment prices listed in the Schedu contract(s) for all future users.

(ii) *Shall evaluate* offers and AD Schedule contracts equally. Some o ferors may not accept solicitatio terms and conditions similar to thos that schedule vendors have incorpo rated into their GSA contracts. Th contracting officer shall act in manner most advantageous to th Government by either awarding a co tract or placing an order against GSA ADP Schedule contract. The co tract file shall be documented to justi fy the action taken.

(c) As appropriate, synopses shal refer to Note 22 as specified i 205.207(d)(S-70).

270.316 Use of GSA ADP requiremen contracts.

GSA makes selected ADPE and com mercially available software availab through requirements contracts When ADPE and software which sati fy requirements are available fr GSA requirements contracts, th source shall be the primary source of supply in accordance with the provisions of the contract. Copies of the contracts are distributed to recipients of the GSA ADP Schedule for FSC Group 70, Part 1. Additional copies are available from the General Services Administration (8BR), Building 41, Denver Federal Center, Denver, Colorado 80225. Some of these requirements contracts specify that GSA is responsible for the allocation of ADPE or software. In these cases, authorization shall be obtained from GSA (KED), Washington, DC 20405, before placing an order. ADPE or commercially available software which is functionally similar to that on a requirements contract shall not be acquired from another source until the activity (a) documents the contract file as to why the requirements contract could not be used, and (b) obtains a delegation of contracting authority from GSA, unless the contract is within the exceptions noted.

270.317 Compatibility-limited requirements.

(a) Unless demonstrated by other circumstances, a requirement for an augmentation or replacement acquisition that is limited to ADPE and/or software compatible with the installed system shall be:

(1) Supported by a software conversion study (see 270.318), as applicable.

(2) Justified on the basis of mission-essential data processing requirements, and economy and efficiency; and

(3) Acquired in accordance with the requirements of this subpart.

(b) Compatibility limited requirements tend to restrict competition and, therefore, shall not be made a mandatory requirement solely for reasons of economy or efficiency. When conversion and other costs associated with acquiring noncompatible systems are to be evaluated, the solicitation shall provide for the submission and evaluation of acceptable noncompatible offers from responsible offerors that will meet the requirement at the lowest overall cost, price and other factors considered. The evaluation shall determine if acquisition of compatible systems is most advantageous to the Government.

(c) The following factors shall be considered in determining whether the incorporation of compatibility-limited requirements is justified for the replacement acquisition:

(1) The essentiality of existing software, without redesign, to meet critical mission needs. For example, the continuity of operations may be so critical that conversion is not a viable alternative.

(2) The additional risk associated with conversion if compatibility-limited specifications are not used and the extent to which the Government would be injured, financially or otherwise, if the conversion to the new ADP system fails.

(3) The additional adverse impact of factors such as delay, lost economic opportunity, and less than optimum utilization of skilled professionals if compatibility-limited specifications are not used.

(4) The steps being taken to foster competitive conditions on the augmentation or replacement acquisition.

(5) The off-loading of selected applications programs to commercial data processing service facilities as an alternative to conversion.

(6) The extent of essential parallel operations, i.e., need to continue operations of the old system in parallel with the new system until it can fully support the mission needs.

(7) The continuation of ADP services for selected application programs with the present commercial ADP services contractor as an alternative to conversion of all programs in the present ADPE resource system.

(8) The feasibility of competing conversion requirements to be performed on a guaranteed basis under a competitive solicitation that couples the conversion effort and ADP services in a single contract, including consideration of the basis for and calculation of liquidated damages provisions for conversion performance failure.

(d) The justification that supports the use of compatibility-limited specifications (i.e., plug-compatible or brand name or equal purchase descriptions) shall be submitted with the APR in accordance with 270.303-1 when the use of these specifications is contemplated.

270.318 Software conversion studies.

(a) Software conversion studies are performed to ensure that the user's needs are met at the lowest overall cost, price and other factors considered. This includes cost and other factors associated with conversion activities. A software conversion study is not required when one of the following conditions exists:

(1) Initial acquisition where no software currently exists;

(2) Acquisition of computer peripherals only;

(3) Exercise of a purchase option under a lease; or

(4) Acquisition of a compatibility-limited replacement system as the result of a comparative cost analysis made in connection with an obsolescence review.

(b) A software conversion study shall be made for each augmentation or replacement ADPE acquisition when either one of the two following conditions exists:

(1) The estimated purchase price of the equipment system or the estimated system life cost is expected to exceed $2,500,000; or

(2) The cost of conversion is to be used as the primary justification for a noncompetitive requirement when the estimated value of the acquisition exceeds $300,000.

(c) A DoD component may elect to conduct its own comprehensive software conversion study, use contractual sources to accomplish the study, or request the GSA Federal Conversion Support Center (FCSC) to perform the study.

(d) The software conversion study shall be included in the contract file and shall be submitted with the APR to GSA.

(e) When contracting for a software conversion study, the statement of work shall provide the following as a minimum:

(1) Problem definition;

(2) Inventory of current system components;

(3) Description of the operating system environment;

(4) Inventory of application programs and data files to be converted;

(5) Feasible equipment contracting approaches (including acquiring plug-compatible or noncompatible equipment, as appropriate) with schedules for both the acquisition and conversion effort;

(6) General description of the target environment, including system hardware and software, performance requirements, and any constraints on the functional definition of the requirement;

(7) If applicable, approach to accomplish any eventual conversion; and

(8) A requirement for the contractor to recommend actions to be taken to reduce cost and risk in any future conversions.

(f) Studies for acquisitions below the thresholds stated in 270.318(b) above shall be based on Government estimates determined in accordance with Departmental procedures. The contract file shall be documented to record the estimates and the method of computation.

(g) Costs directly related to the conversion of the installed ADPE, software, data bases, files, and telecommunications software to the replacement system, and project management costs, shall include, but are not limited to:

(1) Conversion of the following software by reprogramming, recoding or translation:

(i) Existing software written in Federal standard or other ANSI standard higher-level language;

(ii) Application software written in assembly or other nonstandard languages that will continue to meet essential mission needs without redesign, provided that continued use of the nonstandard software can be justified and the file documented with the justification prior to incorporation into the software conversion study;

(iii) Mission-essential application software to be developed for operational use before the replacement is installed (or before commercial ADP services are procured), provided that the software is written in Federal standard or other ANSI standard language.

(2) Conversion of data bases, data base design changes, and data base management systems to the extent necessary to permit the continued use of existing application software;

(3) Firmware required solely to permit the continued use of application software;

(4) Site preparation and modifications to installed environmental controls;

(5) Parallel operation of the old system during the conversion process, including off-site data processing support;

(6) Travel and training expenses, including pay and fringe benefits of Government employees during attendance at formal classroom training courses; and

(7) Other general and user expenses directly related to the conversion effort; e.g., conversion planning, preparation and management supplies, and any additional general-purpose software required to support the conversion.

(h) The useful life of application software is limited by changes in data processing requirements, operating system software, and equipment technology. Generally, the life expectancy of this software, without redesign or reprogramming, is in the range of 5 to 10 years. Accordingly, the updating of application software for these reasons must be considered regardless of whether these programs are converted from one ADPE system architecture to another. The costs incurred for the redesign of application software in technology updating are not bona fide conversion costs and they shall not be evaluated as such. These technology updating costs include:

(1) The conversion of existing software and data bases which are to be redesigned;

(2) Purging duplicate or obsolete software, data bases, and files;

(3) Development of documentation for existing application software; and

(4) Improvements in management and operating procedures.

(i) Standard cost factors, such as those contained in the OMB Cost Comparison Handbook (Supplement No. 1 to OMB Circular A-76), shall be used to the maximum practicable extent in preparing conversion cost studies and estimates. These cost factors may be supplemented by industry or Component-developed cost factors, as necessary.

270.319 Use of benchmarks in low-dollar ADPE systems acquisitions.

(a) Mandatory benchmarks shall not be used in solicitations for ADPE systems with a purchase value of less than $300,000 unless there is no other acceptable means of validation. When the use of benchmarks is necessary, solicitations shall not require the running of "worst case" benchmark programs (e.g., programs that require extensive reprogramming or conversion) unless these programs are representative of the using activity's actual or anticipated data processing needs.

(b) For ADPE systems with a purchase value of $300,000 or less, the following validating methods shall be considered:

(1) Validation of performance by the technical evaluation of proposed ADPE and software; or

(2) Evaluation of an operational ADPE installation processing a similar workload on comparable equipment.

270.320 Use of remote terminal emulation in ADPE systems acquisitions.

(a) Each Component shall determine whether or not to authorize use of remote terminal emulation during each ADPE system procurement and should use the GSA Handbook, "Use and Specifications of Remote Terminal Emulation in ADP System Acquisitions," before making its determination.

(b) When remote terminal emulation is authorized in an ADPE system acquisition, the DoD Component:

(1) Shall follow all mandatory procedures contained in the GSA Handbook (the handbook may be obtained from the General Services Administration (KEC), Washington, DC 20405);

(2) Shall not require remote terminal emulation capabilities that are not explicitly defined in the GSA Handbook;

(3) May declare an offer unacceptable in an negotiated procurement if the offeror fails to provide the remote

terminal emulation capabilities required by the solicitation; and

(4) Shall not require an offeror to conduct a benchmark test using remote terminal emulation at the component's site.

(c) Components shall not authorize the use of remote terminal emulation in ADP service contracting actions, except for:

(1) Dedicated teleprocessing requirements; and

(2) Unusually large and complex share-teleprocessing requirements.

(d) Authority to deviate from the requirements of (b) above shall be obtained prior to synopsis or release of the solicitation, in accordance with Departmental procedures.

(1) To request a deviation, requiring activities shall provide a detailed technical description and justification for each specific deviation desired.

(2) If authority to deviate is granted, the contracting officer shall promptly provide to potential offerors detailed instructions specifying all mandatory remote terminal emulation capabilities not defined in the GSA Handbook and the exact manner in which each emulation benchmark test must be conducted. A notice indicating the availability of these materials shall be published in the Commerce Business Daily (CBD) at least 60 calendar days before the release of the solicitation document.

270.321 ADP fund.

(a) The GSA ADP Fund is a revolving fund available for financing the purchase and, under certain circumstances, lease and maintenance of ADP equipment and/or commercially available software. When approved by GSA, the ADP Fund may be used to obtain maintenance services for ADPE leased from GSA through the ADP Fund.

(b) When an evaluation of offers indicates purchase as the lowest overall cost alternative, but the funds committed to the purchase are inadequate or are not of the proper type, the contracting officer shall notify the requiring or other Department-designated activity of the savings to be realized if items are purchased rather than leased. This activity, upon ensuring that funds are not available, shall make an inquiry to GSA for the use of the ADP Fund. If the ADP Fund is not available, the activity shall notify the contracting officer that the ADP Fund is not available and that the next lowest overall cost alternative should be selected.

(c) If the GSA ADP Fund is used the activity shall negotiate and execute a payback arrangement with the GSA.

270.322 Exchange/"sale" of ADPE.

(a) When it is determined that Government-owned ADPE should be replaced, exchange/"sale" should be considered. Exchange/"sale" is a means of transferring the equipment to be replaced to another Government agency, with reimbursement, or to the supplier of the replacement ADPE for a trade-in allowance on the contract price so that the proceeds can be applied in whole or in part payment for the replacement ADPE. "Sale" relates to the proceeds obtained from another Government agency whereas "exchange" relates to the trade-in allowance offered by contractors. The proceeds of "sale" or the exchange allowance shall be applied toward the acquisition of replacement ADPE. In addition to the requirements in this subpart, compliance with Subpart 217.70 and DOD Manual 7950.1-M is required.

(b) The contracting officer, working with the reutilization activity, is responsible for complying with the following conditions in completing an exchange/"sale" transaction.

(1) The ADPE system/item to be "sold" or exchanged must be similar to the ADPE system/item to be acquired.

(2) The ADPE system/item must be needed in the continuing satisfaction of the ADP requirement:

(3) One system/item must be acquired to replace another similar system/item, except in situations where lesser or greater number of systems/items must be acquired to perform all or substantially all of the functions which the trade-in system/item would otherwise perform; and

(4) A written administrative determination must be made by the requiring

activity that the exchange allowance or the proceeds of the "sale" will be applied in acquiring the replacement ADPE and that the exchange/"sale" transaction will foster the economic and efficient accomplishment of a continuing requirement.

(c) The normal steps in the execution of an acquisition authorizing an exchange transaction are specified herein.

(1) Offers shall be solicited both on an exchange (trade-in for allowance) or no exchange (no trade-in) basis. The Government shall retain the option to exercise any exchange offer at the time of award.

(2) The exchange ADPE shall be listed and described in the solicitation document with the following information included as a minimum: a brief description of each item of ADPE, name of manufacturer, equipment type, model number, and the appropriate condition code and a translation of that condition code. The contracting schedule must allow sufficient time for the screening of the exchange ADPE within the Government prior to contract award.

(3) Immediately upon receipt of offers, the highest exchange offer (if any) shall be determined and used to initiate screening pursuant to 270.14. Notification shall be given to the Defense Automation Resources Information Center (ATTN: DARIC—R) on SF 120, Report of Excess Personal Property. The following notation shall be displayed prominently on the original and 5 copies of the SF 120.

Exchange/"Sale" Property

A written administrative determination as been (will be) made to apply the exhange allowance or proceeds of sale to the cquisition of similar items.

The following additional information hall be submitted with the SF 20:

(i) The identity of the offeror of the xchange;

(ii) The type of replacement equipment;

(iii) The method of acquisition for he replacement equipment;

(iv) The anticipated purchase price or the replacement equipment;

(v) The DPA number assigned by GSA for the replacement equipment, if applicable; and

(vi) The name and telephone number of the contracting officer.

(4) Offers shall be evaluated using the solicitation criteria, including consideration of any exchange allowance offers. Award can be made irrespective of whether the replaced ADPE is exchanged.

(5) Before an award is made, the results of screening shall be considered. If another Government agency wishes to acquire the replaced equipment, the exchange shall not be made. In this event, the contract price will not include the exchange allowance since this amount will be realized by the sale of the equipment to the requesting agency. The actual sale price to the requesting agency will equal the exchange allowance (if any) of the successful offeror.

(6) If no Government agency wishes to acquire the replaced equipment, the contract price will include the exchange allowance (if any). If no exchange allowance was offered by the successful contractor, the replaced equipment shall be handled in accordance with 270.14.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

270.323 Conflicts between this subpart and the DPA.

When contracting for ADPE, commercially available software, maintenance services, supplies, and certain other services under a DPA from the GSA, the provisions of the delegation shall take precedence over any conflicting provisions of this subpart and need not be processed as a deviation.

270.324 Acquisition assistance.

Assistance in any phase of the contracting process covered by this subpart may be obtained by contacting:

Army

U.S. Army Computer Systems Selection and Acquisition Agency, Alexandria, VA 22331

HQDA (DAMO-C4Z-K), The Pentagon, Washington, DC 20310

Navy

ADP Selection Office, Washington, DC 20374

Naval Data Automation Command, Code 11, Washington, DC 20374

Air Force

Air Force Computer Acquisition Center, Hanscom AFB, MA 01731

HQ USAF (SAF/AQC), Washington, DC 20330

Defense Logistics Agency

Defense Logistics Agency, ADP/T Contracting Office (DACO), Cameron Station, Alexandria, VA 22304-6100

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, 38249, Sept. 29, 1988]

Subpart 270.4—Acquisitions Under 10 USC 2315 Authority

270.400 Scope of subpart.

This subpart is applicable to acquisition of automatic data processing equipment or services if the function, operation, or use involves, as its primary purpose, one or more of the following:

(a) *Intelligence systems.* Computer resources for the Intelligence community for the research and development of, or use in, its intelligence activities.

(b) *Cryptologic systems related to national security.* Computer resources for the research and development of, or use in, cryptologic activities authorized by the National Security Agency.

(c) *Command and control of military forces.* Computer resources for research and development of, or use in:

(1) The National Military Command System;

(2) Worldwide Military Command and Control System;

(3) DoD Component Command and Control Systems.

(d) *Integral part of a weapons system.* Computer Resources:

(1) Physically a part of, dedicated to, or essential in real time to, performance of the mission of weapon systems;

(2) Used for specialized training, diagnostic testing and maintenance, simulation, or calibration of weapons systems;

(3) Used for research and development of weapons systems.

(e) *Critical to the direct fulfillme of military or intelligence missio* Computer resources in, or used in t research and development of:

(1) Systems that will deploy as m sion support in a combat environme

(2) War planning systems;

(3) Environmental systems suppo ing military missions, e.g., weath oceanographic, or satellite systems;

(4) Projects the existence of whi are classified;

(5) Warning, surveillance, reconna sance and electronic warfare systems

(6) Mapping, charting, and geode systems;

(7) Airlift, sealift, and port faciliti systems;

(8) Military communication systen or

(9) Logistics systems which provi direct support to operating forces provide direct support to maintenan of weapons systems (e.g., organ supply, software support facilities f weapon systems, etc.). This does n include logistic systems supportin contracting, accounting, disburseme and budgeting, etc.

270.401 Determination of applicability.

Determinations as to the applicab ity of this subpart shall be made in a cordance with DoD Component proc dures.

270.402 Procedures.

Unless the contracting officer elec to use the procedures at 270.3, norm acquisition procedures as prescribed the FAR and this Supplement shall b used in acquiring automatic data proc essing resources covered by the 1 U.S.C. 2315 authority. Other DoD an Departmental regulations treating a quisition and management of ADP re sources may also apply.

Subpart 270.5—Acquisitions Under Other Authorities—[Reserved]

Subpart 270.6—Acquisition of ADP by DOD Contractors

270.600 Scope of subpart.

(a) This subpart is applicable to co tractor acquired ADPE as defined i FAR 31.001, except as components o end items delivered to the Government.

(b) If a contractor acquires ADPE for the account of the Government or if title to the equipment will pass to the Government, the acquisition must be approved as provided in 270.601 and FAR Part 45.

(c) If a contractor leases ADPE, and the lease will not be for the account of the Government or title will not pass to the Government, and the total cost is to be allocated to one or more Government contracts requiring the determination or negotiation of costs, the acquisition must be approved in accordance with the procedures of 270.601 and FAR Part 45.

(d) If a contractor leases ADPE (see 270.2) with an annual cost in excess of $500,000 and more than 50 percent of the cost is allocated to Government contracts requiring the negotiation or determination of costs, the acquisition must be approved in accordance with the procedures of 270.603.

(e) The provisions of 270.602 relating to providing reused equipment to DoD Contractors are applicable regardless of the manner of acquisition or dollar amount.

270.601 DoD component approvals.

(a) Requests for approval of acquisitions of the types outlined in 270.600 (b) and (c) must be submitted through the administrative contracting officer (ACO) to the procuring contracting officer (PCO) who awarded the contract that gave rise to the need for the computer equipment. Prior to the submission to the PCO, the ACO shall comply with 270.602. The PCO will obtain any approvals required by DoD Component procedures.

(b) The supporting documentation for these acquisitions should clearly indicate the best method of financing the acquisition which is in the Government's best interests, that is:

(1) Leasing, either operating or capital, or

(2) Purchase.

(c) The PCO shall consider providing the computer equipment to the contractor as Government-furnished equipment. Factors to be considered include:

(1) Increased ability to realize economies, efficiencies, and to obtain greater competition;

(2) Timeliness;

(3) Impact upon the contractor's ability to perform his contract responsibilities, and

(4) Type of funds available.

The determination shall be made part of the contract file or, if required by DoD Component procedures, transmitted to the appropriate official for approval.

(d) Upon approval of the contractor's requirement, written confirmation shall be provided through the ACO to the contractor.

270.602 Providing excess computer equipment to DoD contractors.

(a) When a DoD contractor has a requirement for computer equipment exclusively for use as facilities, special test equipment, plant equipment or material, under one or more Government contracts, the contractor shall submit a DD Form 1851 with documentation attached as required by 270.604 to the ACO.

(b) The ACO shall forward the approved requirements to the Director, Defense Automation Resources Information Center (DARIC), ATTN: DARIC-R, Cameron Station, Alexandria, VA 22304-6100 in accordance with DoD 7950.1-M.

(c) The DARIC shall determine if excess computer equipment which has a potential to meet the requirement is available and the response shall be returned to the activity designated on the DD Form 1851.

(d) Acquisition of excess ADPE shall be in accordance with 245.302-72 and DoD 7950.1-M.

[51 FR 46419, Dec. 23, 1988, as amended at 53 FR 50417, Dec. 15, 1988]

270.603 Review and approval of contractor-acquired computer equipment used for commercial and government contracts.

(a) In accordance with FAR 31.205-2, if the total cost of leasing computer equipment at a contractor's plant, division, or cost center is expected to exceed $500,000 in any 12-month period and more than 50 percent is to be allocated to Government contracts requiring the negotiation or determination of costs, the ACO shall, prior to approving lease costs:

(1) Conduct an initial and an annual review thereafter of the contractor's system(s) for the purpose of evaluating:

(i) The reasonableness, from the technical standpoint, of the contractor's configuration;

(ii) The existing capability and need to continue leasing, regardless of whether the term of the lease was renewed or otherwise extended by the contractor (see 270.604 for documentation required); and

(2) Arrange for submission by the contractor to the ACO of any proposed lease of a new system and any proposed major change to an existing system, for advance determination of the reasonableness of the resulting cost (see 270.604 for documentation required). A "major change" is any addition or substitution of computer equipment which will result in an annual cost in excess of $100,000.

(b) After the initial review of any proposed lease of a new system or major change, and after each annual review, the ACO shall either enter into an advance agreement with the contractor pursuant to FAR 31.109 to provide a basis for concurrence in the proposed lease, or, in the alternative, notify the contractor of the Government's nonconcurrence and of any consequent cost disallowance contemplated.

270.604 Contractor documentation.

This section specifies the documentation DoD contractors shall submit to support acquisitions of computer equipment. When the documentation has previously been submitted to DCAA, a copy of that submission may be used or, if voluminous, reference to it is acceptable. Documentation previously submitted does not have to be resubmitted; only updated as necessary. The ACO may waive specific documentation requirements below when they are not considered relevant to the acquisition.

(a) *Inventory and analysis of utilization of existing installed computer equipment.*

(1) List each component by manufacturer, type, and model number.

(2) Location(s).

(3) Furnish installation date(s) by component.

(4) Give type of acquisition, i.e., operating lease, capital lease, purchase, Government-furnished, or lease back.

(5) Furnish component reliability data for the past 12 calendar months. Indicate hours each component was available for use versus hours unavailable for use. Indicate preventive and remedial maintenance hours.

(6) Identify and describe each data system supported; indicate computer time for each system and the related contract(s) or task(s) involved.

(7) Identify any system which has been acquired to comply with a contract requirement. The contract number, clause identification and extract of wording requiring a specially configured or specific computer shall be available for Government review.

(b) *Documentation supporting and justifying need for and benefits to be derived from new system(s) or major change(s) to existing systems.*

(1) Furnish advance planning documentation covering useful life of these systems. This documentation shall provide information to support useful life decisions and also provide a basis for entering into advance understandings as provided at FAR 31.109.

(2) List specific objectives or requirements (generally in the form of a functional specification).

(3) At the option of the Government, furnish functional block diagrams of the present and proposed configuration.

(4) Briefly describe the major applications to be processed and appropriate background information to explain the need.

(5) If applicable, list or summarize projects by short title and Research and Development (R&D) project number.

(6) Indicate estimated monthly mainframe use hours for each major application or project for the expected retention period.

(7) Indicate software requirements.

(8) Indicate telecommunications requirements.

(c) *Competitive selection of comput-*
r equipment.

The following shall be submitted for
ew requirements which will be com-
etitively acquired. It shall be made
vailable for annual reviews.

(1) Show names and addresses of
ources solicited, indicate those sub-
nitting proposals.

(2) Indicate which, if any, proposals
ere not acceptable and explain why.

(3) Show cost comparisons for oper-
ting lease, capital lease, lease-with-
ption-to-purchase, and purchase, for
ll acceptable proposals.

(4) Attach a copy of the solicitation,
copy of each acceptable proposal, a
opy of each proposal's evaluation,
nd a copy of the selection report.
Vhen proposals are voluminous, a
ummary may be submitted to the
overnment; actual proposals will be
ept on file and be available to the
overnment.

(5) State whether the selected com-
uter equipment will provide the
owest overall cost to the Government
ver the useful life. If not, explain the
ationale for its selection over that which would have provided the least cost.

(d) *Noncompetitive selection of computers.*

Include alternatives considered or state why none are feasible. Show the equipment configuration selected including manufacturer, type, and model number of each component, feature, and device. Show cost comparisons for operating lease, capital lease, or purchase for the equipment configuration selected.

(e) *Cost.*

State the resulting increase or decrease in monthly costs to the Government.

(f) *Lease versus purchase analysis.*

(1) Pursuant to FAR 31.205-2, provide a lease/purchase analysis by component for the selected computer equipment when an operating lease is the selected method of acquisition. A suggested format for this analysis is shown at the end of this section.

(2) The use of a realistic Useful Life, Present Value and Residual Value analysis for each component is critical. (See 270.604(f)(1).)

SUGGESTED PURCHASE/LEASE ANALYSIS FORMAT

ADP system As of Date

								(7-8)			(9-11 or 10-11)		(12+13)	(4×6)	(15-14)
ADPS Components	Qty.	Vendor	Avg. Monthly Rental(A)/ Lease(B)	Instal. date	Useful Life (C)	Orig. Purchase Price	Equity (D)	Current Purchase Price	Other Vendors Pruchase Price	Residual Value (E)	Owner Depreciation Costs	Other Costs (F)	Total Owner Costs	Total Rental/ Lease Costs (G)	Differential (H)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

(A) Includes projected extra shift where necessary.
(B) Includes other costs (taxes, maintenance, insurance, etc.)
(C) Documentation must be provided and attached per ASPR 3-1100.3 or 15-205.48, as applicable.
(D) Accrued equity on rented/leased equipment (accumulated rental credits).
(E) Residual value forecast at end of useful life.
(F) Includes taxes, maintenance, insurance, selling costs, lease cancellation costs, etc.
(G) When considering annual justification for retention of existing ADPE capacity and the need to continue leasing, only the remaining rental costs to be paid under the lease should be shown.
(H) If lease is favorable, bracket differential figures.

270.605 Contractor use of computers for non-government purposes.

The prior written permission of the contracting officer (or, the official prescribed in procedures of the DoD Components, if the expected cost is in excess of $500,000 for any 12-month period) is required for any non-Government use of computer equipment provided to the contractor which was acquired under one or more Government contracts negotiated on the basis of cost data. This approval may be granted if FAR 45.407(b) is satisfied and no additional costs are incurred by the Government.

270.606 Purchase option credits for contractor-acquired computers.

(a) When leased ADPE is used on a Government contract(s) and the total cost is charged to the Government under a cost-reimbursement contract(s), the contracting officer shall require the contractor to include a provision in the rental contract stating that the Government shall have the initial option to utilize any purchase credits or other benefits earned through rental payments. This applies regardless of whether the acquisition qualifies as an operating lease or captal lease.

(b) When leased ADPE is used on a cost-reimbursement type Government contract(s) requiring the determinaion or negotiation of costs, and less han 100 percent of the cost of the quipment is charged to the Government, the contracting officer should btain for the Government at the time hat the initial annual review is conucted, the right to accrued purchase redits if the contractor elects not to xercise its purchase option. Accordingly, negotiation objectives shall inlude the following when less than 100 ercent of the cost of the equipment is bsorbed by the Government:

(1) The contractor should be encourged to incorporate in its equipment ase the right to assign accrued purhase credits to the Government;

(2) The contracting officer should otain for the Government, if possible, e right of first refusal on accrued rchase credits if the contractor ects not to exercise its purchase tion; and

(3) A 120-day advance notice should be provided to the ACO when the contractor intends to terminate its equipment lease if the Government has rights in accrued purchase credits.

(c) The ACO shall report the availability of such credits in accordance with the procedures for the reuse of computer equipment as prescribed by DoD Manual 7950.1-M and the respective DoD Component implementations thereof.

(d) If the Government decides to take advantage of the benefits, the provisions of 270.1401(c) apply.

270.607 Computer equipment in the possession of DoD contractors.

Excess computers, software, and associated spare parts in the possession of contractors, whether leased or Government-owned, will be reported in accordance with Subpart 270.14 and DoD Manual 7950.1-M. Computers, software, and associated spare parts with an initial acquisition cost below $1,500 are subject to special procedures in DoD Manual 7950.1-M.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

270.608 Technical assistance.

Technical assistance in implementing this subpart shall be provided as necessary to the contracting officer by the DoD Component having CAS cognizance for the contractor.

Subpart 270.7—Telecommunications Resources

270.701 General.

Acquisitions of telecommunications resources by the DoD are governed by the Statement of Areas of Understanding Between the Department of Defense and the General Services Administration, dated November 27, 1950 which appears at 15 FR 8226, December 1, 1950. The text of that agreement is as follows:

Statement of Areas of Understanding Between Department of Defense and General Services Administration:

(1) The areas of understanding herein set forth were worked out pursuant to order of the President of July 1, 1949, directed to the Secretary of Defense, the Director, Bureau

of the Budget, and the Administrator of the General Services Administration.

(2) The areas of understanding with respect to communications services are:

(a)(1) As used in this statement, with respect to communications services: "Area contracts" are contracts providing for the furnishing of a communication service to all, or substantially all, activities of the Government located within a specified area, executed by GSA or by another agency designated by GSA.

(a)(2) As appropriate for contractual and operational matters: "Department of Defense" means one or more of the military departments.

(b) The basic principle in the procurement of communications services is that all such services shall be procured or provided at the minimum total cost to the Government consistent with requirements for capacity, efficiency of operation, reliability of service, security, and programmed activities. These requirements must be determined by the using agency.

(c) Close coordination and cooperation between the GSA and the Department of Defense shall be maintained to obtain the maximum economy consistent with the requirements for service.

(d) Communications services for activities of the Department of Defense occupying property controlled or operated by another Federal agency will be procured or provided by the General Services Administration or by the operating agency unless, in the opinion of the Department of Defense, the procurement or provision thereof by the Department of Defense is necessary in the interest of military operations, exercise of command and/or National Security.

(e) Communications services for the Department of Defense, in localities within an area where these services are or may become available under a General Services Administration contract, will be procured under a General Services Administration area contract when such a procedure is of benefit to the Government as a whole and does not adversely affect Military operations, exercise of command and/or National Security. In all other instances, communication services required by the Department of Defense will continue to be procured under a standardized National Defense contract. Copies of or data on contracts executed by the Department of Defense for communications facilities and services will be furnished to the GSA upon request unless distribution is inadvisable for reasons of security.

(f) Except as provided in paragraphs 2 (d) and (e) above, all communication facilities and services for activities of the Department of Defense will be provided or procured by the Department of Defense.

(g) The Department of Defense will provide for complete coordination of all communication services procured or provided by it for all activities of the Department of the Army, Navy (including Marine Corps) and Air Force, and for maximum economy consistent with requirements.

(h) Joint use of telephone facilities such as private branch exchanges is to be encouraged whenever such use will result in efficient and economical service: provided that in the opinion of the Department of Defense, no interference with military operations or violations of military security will result.

(i) It is recognized that rapid written communications for the Government as a whole can best be obtained by independent military and civilian agency systems, with these systems cooperating with each other. These systems, however, may interchange traffic where such interchange is efficient, and economical and practicable, provided that in the opinion of the Department of Defense there is no interference with movement of military traffic, and the handling of civilian traffic does not necessitate the utilization of additional facilities and personnel by the Department of Defense.

(j) Except as otherwise provided herein the GSA will represent Executive Agencies including the Department of Defense in proceedings involving communications before municipal, State and Federal regulatory bodies in all rate cases and matters associated therewith.

EXCEPTIONS

(1) In those instances where the Department of Defense has the sole Government interest in a proceeding involving communications before a regulatory body, the Department of Defense will conduct the representation on behalf of all Executive Agencies of the United States Government. The Department of Defense and the General Services Administration in pending or proposed proceedings will advise each other of action taken or to be taken that may have effect upon or be of interest or assistance to each other. Such representations conducted by the Department of Defense shall be subject to overall coordination by the General Services Administration. This shall not preclude representation for the Department of Defense by the General Services Administration when such representation is requested by the Department of Defense and is mutually agreeable.

(2) In those instances where the Department of Defense does not have sole Government interest in a proceeding involving communications before a regulatory body, the Department of Defense will conduct the representation on behalf of all Executive Agencies whenever representatives of the

Department of Defense and the General Services Administration agree that conduct of the representation by the Department of Defense is in the best interest of the Government. Such representation conducted by the Department of Defense shall be subject to overall coordination by the General Services Administration.

(3) Except as pertains to the applications of pertinent provisions of section 5, Public Law 211, 81st Congress.

(k) Liaison between the Department of Defense and the General Services Administration for all matters involving representation of Executive Agencies in proceedings involving communications before regulatory bodies shall be maintained between the Office of General Counsel, the General Services Administration and the Office of General Counsel, Department of Defense.

(l) Liaison with respect to policy matters concerning this arrangement and matters pertinent thereto except as provided in paragraph (k), will be maintained between the Chief, Public Utilities Branch, Public Building Service, General Services Administration and Chief, Electronics Division, Munitions Board of the Department of Defense and for operational and contractual matters between designated representatives of the General Services Administration and of the Department of Defense.

(m) This area of understanding is applicable to communications services within the Continental United States, Hawaii, Puerto Rico and the Virgin Islands. The Department of Defense shall be exempt from action taken by the Administrator with respect to communications services under Section 201(a) of Public Law 152 in other geographic areas.

270.702 Policy.

Acquisitions of telecommunications resources shall be accomplished in accordance with the Statement of Understanding set forth in 270.701.

Subpart 270.8—Use of the GSA Teleprocessing Services Program (TSP)

270.800 Scope.

The TSP is a GSA program that DoD Components may use to acquire remote data processing services through use of Multiple Award Schedules (MAS) (see 270.802-1) and Basic Agreements (BA) (see 270.802-2).

270.801 Applicability.

(a) When a requirement analysis indicates that remote data processing services are available in the commercial market to satisfy a requirement, the DoD Component should consider the TSP as a source of supply.

(b) DoD contractors or subcontractors may use the TSP.

(c) Covered TSP services include interactive, remote batch processing, and a combination of these (full services), as well as related support services incidental to the teleprocessing performed by commercial firms. These include:

(1) Training services that are limited to the unique features of a particular teleprocessing service;

(2) Technical Assistance/Analyst Services (TA/AS) specifically related to the firm providing teleprocessing services. Such services are limited to assisting users on network operations, special features that may influence application system design, communication interfaces with contractor networks, or other areas incidental to the use of the firm's software packages;

(3) Use of the TSP firm's premium (extra charge) software packages related to a teleprocessing requirement as limited in paragraph (e);

(4) Use of the TSP firm's data bases related to a teleprocessing requirement;

(5) Furnishing network documentation;

(6) Conversion of Government-controlled files and application programs when initiating performance or changing firms under a TSP contracting arrangement as provided in paragraph (g).

(d) *Excluded services.* Facilities management, the lease or purchase of ADPE and predominantly local batch processing services are excluded.

(e) *Limitations on TA/AS and premium software packages.* Technical assistance/analyst services and use of premium software packages (paragraphs (c)(2) and (3) above) have dollar limitations that are reflected in both the MAS and BA. Acquisition of these types of services, that exceed the established limitations, should be on a competitive basis. The dollar limitations for each teleprocessing requirement are 10 percent of the total value of the requirement per fiscal year, not to exceed $100,000 per year for TA/AS and $25,000 per year per premium software package. The DoD Component shall obtain authorization from the GSA TSP contracting officer before placing a purchase order under a MAS or awarding a contract under a BA which includes requirements that exceed the above limitations.

(f) *Conversion under TSP.* Services associated with conversion of files and application programs may be included in a MAS purchase order or BA contract at the option of the DoD Component, provided that:

(1) A determination is made, when the conversion requirement is estimated to exceed $75,000, that more extensive competition is not practicable,

(2) Each participating firm, when the MAS method is selected and the teleprocessing requirement includes conversion services, is required to propose the conversion portion of the requirement or be eliminated from consideration.

(3) The description of an individual TSP conversion requirement identifies, as a minimum, the number of programs to be converted, source computer system, the number of lines of code to be converted by language, the number of files to be converted by organizational type (e.g., index sequential, sequential, random, DBMS), a description of the complexity and level of documentation of the files and programs, redocumentation requirements, training requirements, and specific testing and acceptance criteria for the converted programs and files.

(4) Offerors are provided an opportunity to inspect the available documentation of all programs and files pertinent to the conversion effort, subject to necessary limitations for the protection of personal, proprietary, or other sensitive data.

(5) Offers for conversion services are solicited and awarded on a separate line item, firm fixed-price basis. Under the MAS method, participating firms do not quote conversion services rates in their schedule price list; rather, a firm offer is made for each particular requirement.

(6) Order placements or contract awards, when teleprocessing requirements include conversion services, are based on lowest overall costs, price a other factors considered.

(g) *Software redesign or progra ming.* Software redesign or progra ming services are not always availab in the MAS and BA. Programming linkage or bridge routines betw multiple software packages und $5,000 annually per requirement a generally available. Other applicatio programming can be included in TSP BA contract provided the Do Component requests and receives sp cific authorization from the GSA co tracting officer.

270.802 Methods of acquiring GSA TS services.

The GSA TSP includes two method of acquiring services, either of which may be used as appropriate. Neither o these methods allows cost-reimburse ment contracting.

270.802-1 Multiple Award Schedule (MAS).

GSA periodically establishes a mult ple award schedule which include firm rates for services. The MAS pro vides for incremental discounts base on each firm's total MAS dolla volume of services delivered Govern ment-wide. The MAS terms and cond tions can only be modified by GSA Under the provisions of the schedule a firm may modify the services offere through a MAS amendment. The MAS may be used when other-than-full an open competition is justified. Policie and procedures for using the GSA MAS are contained in the GSA TS Handbook (see 270.802-3).

270.802-2 Basic Agreement (BA).

(a) GSA periodically establishes BA under which GSA negotiate terms and conditions are made ava able for use in soliciting proposals a awarding contracts for TSP service The BA terms and conditions can b submitted only by GSA. Contracting actions using other-than-full and ope competitive procedures, if properl justified, may be placed under the B when a requirement within the TS scope cannot be justified under th MAS.

(b) Dedicated teleprocessing systems requirements may be included in a BA solicitation under the TSP provided:

(1) The APR includes appropriate documentation to support a system requirement configuration, or a specific part thereof, which is to be solicited solely on a dedicated-system basis. This provision does not apply when a DoD Component expresses willingness to evaluate a dedicated-system alternative proposal to a proposal priced on a resources-used (unit rate) basis.

(2) When dedicated-system proposals are to be solicited and evaluated as an alternative to resources-used type proposals, evaluation criteria shall be sufficient to adequately compare a dedicated system pricing offer with resources-used (unit rates) offers. The solicitation documentation shall provide that an offeror submitting a dedicated-system proposal may submit a resources-used proposal. Contract awards made on a system-life basis shall provide for an annual Government review of work load and usage and reserve the right to select on a prospective basis the more favorable of the contractor's dedicated-system or resources-used pricing modes.

270.802-3 GSA TSP guidance.

(a) Guidance concerning the GSA TSP may be obtained from the General Services Administration (KED), Washington, DC 20405 or from any GSA regional office.

(b) The Teleprocessing Services Program (TSP) Handbook provides procedures to be followed by Federal agencies in acquiring services within the TSP scope. The handbook is not a regulation. A limited number of copies of the handbook are available without charge to all Federal agencies by written request to GSA (KED), Washington, DC 20405 or any GSA regional office. Major revisions or new editions of the handbook are announced in GSA bulletins.

270.803 Procedures for acquiring GSA TSP services.

(a) *Agency procurement requests.* DoD Components shall submit an APR to GSA to acquire GSA TSP ervices unless the acquisition is below $2,000,000 competitive, or $200,000 noncompetitive, annually.

(b) *Evaluation and source selection.* Source selection shall be based on a technical and a system-life cost evaluation.

(1) Technical evaluation factors shall be limited to mandatory service requirements and those evaluated optional features that have been assigned relative values (expressed in dollars, points, or any other reasonable indicators). Evaluated optional features should not exceed 20 percent weighting value in the total evaluation.

(2) The lowest overall cost shall be used in evaluation and source selection, price and other factors considered. Conversion costs shall be included in system-life evaluations. Contractor prices instead of Government estimates shall be used in the Government's overall estimate of conversion in computing the systemlife costs.

(3) For requirements over $300,000 annually, benchmark results shall be used to determine costs for all technically qualified firms. The benchmark package should be available to offerors at least 45 calendar days before benchmark performance. The use of benchmarks may be considered in selections under $300,000 annually because different amounts of connect, input/output and CPU time, for example, will be required by different contractor systems to accomplish the same work load. The selection of the benchmark work-load is critical to the source selection because it will evaluate the contractor's billing algorithm, a significant factor in cost determination. Under either the MAS or BA, a copy of the benchmark used for cost evaluation in the selection process shall be retained for periodic performance evaluation purposes over the system life of the requirement. If a benchmark is not used, the cost shall be derived by a calculation of the various categories of the work-load estimate or other adequate techniques. FEDSIM has developed a synthetic benchmark for remote batch applications called the "Resource Driver Program" which can be considered (see 270.12).

(4) Prices, rates, and discounts for MAS selections shall be obtained by contacting any GSA/OIRM regional office. Other costs for selections under the MAS shall be derived directly from the pricelists.

(c) *Low cost acquisition.* When the system-life estimated cost does not exceed $10,000 annually, the MAS method provides a simplified procedure that agencies use for selecting teleprocessing services.

270.804 GSA review of selections under the GSA TSP.

GSA reserves the right to review any TSP selection action under the MAS or BA, either before or after award. Consequently, contractor selection and contracting documentation shall be retained for a period of two years after selection.

Subpart 270.9—Privacy for Computer Systems

270.901 Applicability.

This subpart applies to computer systems acquired by a DoD Component or Government contractor.

270.902 Requirements.

FAR Part 24 prescribes policies and procedures for complying with the Privacy Act of 1974 (5 U.S.C. 552a).

270.903 DoD Component responsibilities.

In addition to the requirements of FAR 24.103, contracting officers shall ensure that contracts subject to the Privacy Act require the submission of necessary reports and notices required by DoD Component implementation of OMB Circular A-108.

270.904 Contract clauses.

In addition to the clause at FAR 52.224-2, contracting officers may insert the clauses at 252.270-7008, Rights in Privacy Safeguards, and 252.270-7009, Access to Contractor Facilities and Records—Privacy Safeguards Inspection, in solicitations and contracts when acquiring equipment, software, or services subject to the Privacy Act.

Subpart 270.10—Security for Computer Systems

270.1000 Scope of subpart.

This subpart applies to all comput acquisitions regardless of the autho ity under which acquired.

270.1001 Policy.

(a) Specifications for the acquisitio of ADPE, software, maintenance ser ices, and supplies are required to certified by the requiring agency meeting the agency security needs accordance with Departmental regul tions. These requirements are in add tion to provisions concerning prote tion of the privacy of individuals (s 270.9 and FAR 24.1).

(b) Specifications or other requir ments statements for solicitation shall include, when applicable:

(1) DoD Component rules of condu that a contractor and the contractor employees shall be required to follo

(2) A list of the anticipated threa and hazards that have been dete mined by risk analysis that the co tractor must guard against;

(3) A description of the safeguar that the contractor is required to pr vide;

(4) The standard applicable to th contractual requirement (see 70.11);

(5) The test methods, procedure criteria, and inspection system (or th requirement to submit proposal therefore) necessary to verify an monitor the operation of the saf guards during contract performan and acceptance and to discover an counter anv new threats or hazards;

(6) The requirement for periodicall assessing the security risks involve and advising potential users of th level of security provided;

(7) Proposed contractual clauses o provisions, as necessary, to provide fo the foregoing; and

(8) A description of the personnel security requirements.

270.1002 Security program for automati data processing facilities.

(a) DoD Components are required to organize and maintain an ADP system security program to ensure the protection, confidentiality, and integrity of the Government's investment in the ADP system, including associated ADPE, data, computer media, and software. This program should be applied to contractors as appropriate. DoD Components' internal directives and procedures for the physical security of computer facilities should consider the standards and guidelines that appear in the following Department of Commerce publications:

(1) FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management;

(2) FIPS PUB 29, Glossary for Computer Systems Security;

(3) FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974;

(4) FIPS PUB 46, Data Encryption Standard;

(5) FIPS PUB 48, Guidelines on Evaluation of Techniques for Automated Personnel Identification; and

(6) FIPS PUB 65, Guideline for Automatic Data Processing Risk Analyses.

(b) NBS Publications List 91 outlines a number of additional NBS computer security publications.

270.1003 Security against compromising emanations.

(a) If computer equipment to be acquired is to be used to process classified information, a determination as to whether or not the equipment is required to provide protection against compromising emanations, as required by Departmental procedures, shall be provided to the contracting officer by the requiring activity. If such protection is required, the contracting officer shall require that equipment delivered under the contract shall comply with an established National TEMPEST standard (e.g., NACSEM 5100, NACSIM 5100A) or a standard used by other authority, as identified by the requiring activity.

(b) If contracts are to be awarded which require the performance of ADP services involving classified data, programs, etc., the requiring activity shall advise the contracting officer on whether or not to require Defense contractors performing these services to use equipment meeting the requirements specified in (a) above. The requiring activity shall also provide information concerning any requirement for marking of TEMPEST-certified equipment (especially if to be reused), and the means of validating TEMPEST equipment compliance with required standards.

(c) *Contract clause.* The contracting officer shall insert a clause similar to the clause at 252.270-7403, Protection Against Compromising Emanations, in solicitations and contracts when acquiring computer equipment or systems to be used to process, transmit, store, retrieve or display information requiring protection under the National Security or Atomic Energy Acts, as amended. Other necessary material developed by DoD Components may be invoked in the clause as appropriate when a contractor is to perform automated services involving material requiring protection against compromise.

(d) The contracting officer shall insure that Section E of the contract (Inspection and Acceptance) requires validation of the equipment's TEMPEST compliance with the established standard. This is accomplished by one of three methods:

(1) Determining that the equipment is listed or certified for listing on the Preferred Products List (PPL) published quarterly by the Subcommittee on Compromising Emanations (SCOCE). This list is available from the local TEMPEST official;

(2) If compliance with a TEMPEST standard other than NACSEM 5100 or NACSIM 5100A is required, the requiring activity's cognizant TEMPEST official shall determine the compliance of the delivered equipment with the standard; or

(3) Actual testing and certification by the DoD Component's cognizant TEMPEST activity.

(e) In addition to the local TEMPEST official, information on the TEMPEST program, equipment qualification, etc., may be obtained from the following:

For the Army: TEMPEST Coordination Officer, Major Command Headquarters, or Commander, U.S. Army Intelligence and Security Command, Attn: IAOPS-OP-P, Arlington Hall Station, Arlington, VA 22212.

For the Navy: Commander, Naval Security Group Command, Attn: Code G65, 3801 Nebraska Avenue NW., Washington, DC 20390.

For the Air Force: TEMPEST Officer, Major Command Headquarters, or AFCSC/EPV, San Antonio, TX 78243.

For the Marine Corps: Commandant of the Marine Corps, Headquarters, Marine Corps, Attn: Code CCTS, Washington, DC 20380.

For the Office, Secretary of Defense and Defense Agencies Not Listed Below: Office of the Joint Chiefs of Staff, Attn: TC3S-JTR, The Pentagon, Washington, DC 20301.

For the Defense Intelligence Agency: Director, Defense Intelligence Agency, Attn: OS-2, Washington, DC 20301.

For the Defense Communications Agency: Mr. Wheeler W. Hatch, Defense Communications Agency, Attn: B315, Washington, DC 20305.

For the Defense Logistics Agency: Director, Defense Logistics Agency, Attn: Command Security Office (DLA-T1), Cameron Station, Alexandria, VA 22314.

For the Defense Nuclear Agency: Director, Defense Nuclear Agency, Attn: ISSO, Washington, DC 20305.

For the Defense Investigative Service: Defense Investigative Service, Directorate for Industrial Security, Attn: V0410, 1900 Half Street NW., Washington, DC 20324.

For the Defense Mapping Agency: Defense Mapping Agency, Building 56, USNOBS, Washington, DC 20305.

Subpart 270.11—Standards

270.1100 Scope of subpart.

This subpart provides for implementation of Federal Information Processing Standards (FIPS), Federal Telecommunications Standards (FED-STD) and Joint FIPS/FED-STD for computer equipment subject to Subpart 270.3. These standards may also be used for computer equipment subject to Subparts 270.4 and 270.5.

270.1101 Policy.

(a) Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(f) and Executive Order 11717), the Secretary of Commerce is authorized to establish uniform Federal Information Processing Standard Publications (FIPS PUB) to be met by Federal agencies, including the Department of Defense, in acquiring ADP equipment and software as defined in 70.2. Prior to the award of any contract for these items, contracting officers shall assure that the otherwise successful offeror satifies the applicable FIPS PUB requirements specified in the solicitations.

(b) The Defense Communications Agency and the U.S Army Communications-Electronics Command (CECOM) are responsible for developing and/or promulgating all guidance on communications standards, regardless of source or origin, applicable to DoD that Defense communications systems must meet when being acquired. These include NATO, international and national standards, industry, Federal and military standards. Acquisition shall be made only from those sources that comply with the communications standards contained in the solicitations.

(c) In order to maximize competition by promoting standardization and compatibility among vendors of commercially available automatic data processing equipment (ADPE), the National Bureau of Standards (NBS), Department of Commerce, has established and maintains listings of equipment that it has verified as having conformed to, or having been excluded from, certain FIPS. These standards apply to the acquisitions of:

(i) All new and replacement ADP systems not otherwise excluded in FIPS PUBS 60-2, 61-1, 62, and 63-1;

(ii) Computer peripheral equipment acquired to replace existing peripheral equipment or to augment ADP systems that employ interfaces conforming to the Input/Output Channel Interface Standards (FIPS PUBS 60-2, 61-1, 62, and 63-1); and

(iii) Peripheral equipment acquired to replace existing peripheral equipment or to augment ADP systems that do not conform to FIPS PUBS 60-2, 61-1, 62, and 63-1, but for which the hardware and software necessary to conform to these standards are commercially available.

(d) Though the NBS qualification procedures occur in advance and independent of any specific action, maximum practicable opportunity shall be given to prospective contractors to qualify products during the preaward process. Contracting officers may obtain both the lists of equipment which qualify as satisfying the NBS standards and those excluded from this verification procedure by writing the Director, Center for Computer System Engineering, Institute for Computer Science and Technology, National Bureau of Standards, Washington, DC 20234. Offerors may obtain verification procedures for compliance testing from this address, Attention: Verification of I/O Channel Level Interface Standards.

270.1102 Waivers.

(a) The waiver procedure for FIPS for computer equipment subject to 270.3 is set forth in the particular FIPS PUB. For some standards, a waiver approval is required from the Secretary of Commerce prior to issuance of solicitations.

(b) The waiver provisions of FAR 9.206-1(c)(3) do not apply to those items subject to (a) above. Waiver procedures are specified by the DoD components. Communication standards in the MIL STD 188-series are mandatory for use within DoD.

270.1103 Solicitation provisions and contract clauses.

(a) *Federal Information Processing Standards.* The contracting officer shall insert the following provisions and clauses, as applicable (see 270.1101 above), in solicitations and contracts for automatic data processing equipment, software and supplies, unless a waiver has been obtained in accordance with DoD Component procedures (see 270.1102 above):

(1) 252.270-7101, American Standard Code for Information Interchange (ASCII) System Requirements; to specify the code and character set for use in information processing systems and associated communications and related equipment.

(2) 252.270-7102, Punched Paper Tape Readers and Punches; when acquiring equipment which punches or reads perforated tape.

(3) 252.270-7103, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI); when acquiring 9-track ½-inch wide, 800 characters-per-inch magnetic tape equipment.

(4) 252.270-7104, Rectangular Holes in 12-Row Punched Cards; when acquiring equipment or services involving the reading or punching of 3 ¼-inch cards.

(5) 252.270-7105, Hollerith Punched Card; when acquiring punched card machines (PCM) used to punch or read 12-row 3 ¼-inch wide cards utilizing rectangular holes.

(6) 252.270-7106, Subsets of the Standard Code for Information Interchange; when acquiring ADPE which does not require the full 128-character set required by FIPS PUB 1-2.

(7) 252.270-7107, Flowcharts, Symbols, and their Usage in Information Processing; when flowcharts of information processing systems is part of the documentation to be delivered to the Government.

(8) 252.270-7108, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Code 0); when acquiring tape drives as described in the clause.

(9) 252.270-7109, One-inch Perforated Paper Tape for Information Interchange; when acquiring one-inch paper tape or associated equipment.

(10) 252.270-7110, Take-up Reels for the One-inch Perforated Tape for Information Interchange; when acquiring one-inch perforated tape take-up reels or related equipment.

(11) 252.270-7111, Software Summary for Describing Computer Programs and/or Automated Data Systems; when the ADP acquisition involves documentation of computer programs and/or automated data systems.

(12) 252.270-7112, Optical Character Recognition Equipment; when acquiring Optical Character Recognition (OCR) equipment, or services relating thereto, except as described in 70.1103(a)(13) below.

(13) 252.270-7113, Character Set for Handprinting; when acquiring Optical Character Recognition (OCR) equipment requiring data entry of handprinted material.

(14) 252.270-7114, Code Extension Technique in 7 or 8 Bits; when the acquisition allows for the submission of coded character sets that are not included in the standard 128 characters of the American Standard Code for Information Interchange (ASCII).

(15) 252.270-7115, Graphic Representation of the Control Characters of ASCII (FIPS PUB 1-2); when acquir-

ing equipment that prints or displays any of the control characters of the ASCII.

(16) 252.270-7116, Data Encryption Standard (DES); when (i) there is a requirement for data encryption, (ii) a DoD component decides that cryptographic protection is required, and (iii) the data are not classified according to either the National Security Act or the Atomic Energy Act.

(17) 252.270-7117, Recorded Magnetic Tape for Information Interchange, 6250 Characters per Inch (CPI)(246 CPMM, Group Coded Recording); when acquiring tape drives as described in the clause.

(18) 252.270-7118, Magnetic Tape Cassettes for Information Interchange (3.810MM (0.150 Inch) Tape at 32BPMM (800 BPI), PE); when acquiring magnetic tape cassette equipment as described in the clause.

(19) 252.270-7119, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30MM (0.25 Inch), 63 BPMM (1600 BPI) Phase Encoded; when acquiring magnetic tape cartridge equipment as described in the clause.

(20) 252.270-7120, Description of Computer Magnetic Tape File Properties; when the acquisition involves delivery of coded information on magnetic tape.

(21) 252.270-7121, Computer Output Microform (COM) Formats and Reduction Ratios, 16MM and 105MM; when the acquisition involves computer generated microforms.

(22) 252.270-7122, Input/Output (I/O) Channel Interface; when an acquisition conforming to 270.1101(c) is effected, and FIPS PUB 60-2 controls. This standard does not apply to minicomputers, microcomputers and other small scale systems that are specifically excluded by the National Bureau of Standards (NBS).

(23) 252.270-7123, Channel Level Power Control Interface; when an acquisition conforming to 270.1101(c) is effected, and FIPS PUB 61-1 controls.

(24) 252.270-7124, Operational Specification for Magnetic Tape Subsystems; when an acquisition conforming to 270.1101(c) is effected, and FIPS PUB 62 controls.

(25) 252.270-7125, Interface: ADP Systems/Variable Block, Rotating Mass Storage Subsystems; when an acquisition conforming to 270.1101(c) is effected, and the clauses at 252.270-7122 and 252.270-7123 are applicable, use of the clause at 252.270-7125(a) is required when acquiring variable block, rotating, mass storage subsystems with supplementary device characteristics. When the clause at 252.270-7125(a) is used, it shall be completed in accordance with Departmental procedures. The clause at 252.270-7125(b) is required when acquiring variable block rotating mass storage subsystems when conformance to supplementary device dependent characteristics is not required and unless otherwise excluded by use of the clauses at 252.270-7122 and 252.270-7123. Neither clause is required if waived under the provisions of FIPS PUB 63-1.

(26) 252.270-7126, Magnetic Tape Labels and File Structure Information Interchange; when acquiring information processing systems that will either generate or accept magnetic tapes for information interchange.

(27) 252.270-7127, Data Encryption Standard (DES) Modes of Operation; when acquiring ADPE and ADP services subject to the GSA approval requirements contained in Subpart 270.3, and the Data Encryption Standard (DES) described at 270.1103(a)(16) above.

(28) 252.270-7128, Microform Readers; when acquiring microform readers to be used in conjunction with computer-generated microform conforming to the clause at 252.270-7029.

(29) 252.270-7129, Optical Character Recognition (OCR) Inks; when local purchase is authorized for optical character recognition (OCR) ink and preprinted forms that will be read by OCR techniques when the interchange of machine readable information between different systems will be required.

(30) 252.270-7130, Optical Character Recognition (OCR) Printers, Readers and Printed Forms; when acquiring optical character recognition (OCR) printers, readers and printed forms subject to the clause at 252.270-7112.

(31) 252.270-7131, Digital Magnetic Tape Cassette Equipment and Associated Programs; when acquiring magnetic tape cassette equipment or associated programs specified in the clause.

(32) 252.270-7042, Acquisition and Validation of COBOL Compilers; when the acquisition includes a COBOL compiler.

(33) 252.270-7133, Acquisition of COBOL Programs and/or Programming Services; when the acquisition involves delivery of a program written in COBOL.

(34) 252.270-7134, Delayed Validation of Compilers; when delayed validation of compilers is necessary or advantageous.

(35) 252.270-7135, Interchange of Machine Processable Data Between and Among Agencies; when a contract will involve the acquisition of programs to be interchanged with state and local governments, industry and the public.

(36) 252.270-7136, Additional American Standard Code for Information Interchange (ASCII) Controls For Character-Imaging ADP Equipment or Services; when acquiring ADPE such as interactive terminals, line and microfilm printers, word processors and other types of character-imaging equipment subject to 270.1103(a) (1) and (14).

(37) 252.270-7137, Interface: ADP Systems/Fixed Block, Rotating Mass Storage Subsystems; when acquiring fixed block, rotating mass storage subsystems, unless excluded by reference to the FIPS PUBS in 252.270-7022 and 252.270-7023.

(b) *Joint federal information processing/federal telecommunications standards (FIPS-FED/STD).* The contracting officer shall insert the following clauses, as applicable, in solicitations and contracts for automatic data processing equipment (ADPE), software and services subject to Subpart 270.3, *provided* that the requiring activity determines that no other standards apply to the telecommunication aspects of the requirements, and compliance with FIPS PUB 1-1 is required:

(1) 252.270-7201, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communications Equipment; when an acquisition involves data terminal and ADPE which is (i) employed with synchronous data communication equipment, and (ii) designed to operate on binary encoded information over wideband communication channels having greater band width than the normal 4kHz commonly used in analog voice transmission.

(2) 252.270-7202, Bit Sequencing of the Code of Information Interchange in Serial-by-Bit Data Transmission; when acquiring equipment or services requiring the transmission of data in a serial-by-bit, serial-by-character mode.

(3) 252.270-7203, Character Structure and Character Parity Sense for Serial-by-Bit Data Communication in the Code for Information Interchange; when acquiring equipment where transmission of data is a serial-by-bit, serial-by-character synchronous or asynchronous mode is to occur.

(4) 252.270-7204, Character Structure and Character Parity Sense for Parallel-by-Bit Data Communication; when acquiring equipment or services for the transmission of data in a parallel-by-bit, serial-by-bit mode, in order to prescribe the character structure and sense of character requirements.

(5) 252.270-7205, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment; when acquiring equipment or services that are to employ voice communication facilities, in order to prescribe the transfer rate for binary coded information in synchronous serial or parallel form.

(6) 252.270-7206, Data Link Control-Synchronous Bit-Oriented Data; when acquiring equipment or services using synchronous, bit-oriented data communications, in order to prescribe data link control procedures.

(7) 252.270-7207, Interface Between Data Terminal Equipment (DTE) and Data Circuit Terminating Equipment (DCE) for operation with Packet-Switched Data Communications Networks, whenever an interface based on the International Telegraph and Telephone Consultive Committee (CCITT) recommendation X.25 is required.

(c) *Federal telecommunications standard.* The contracting officer shall insert the following clauses, as applicable, in solicitations and contracts involving acquisition of ADP and telecommunications equipment and software subject to Subpart 270.3, unless it is determined by the requiring activity that other standards are appropriate:

(1) 252.270-7301, Time and Frequency Reference Information in Telecommunications Systems; when acquiring telecommunications systems or facilities which are totally funded by one or more Government contracts.

(2) 252.270-7302, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems; when acquiring, by lease or purchase, 2400 bits per second (bps) modems for use over analog transmission channels other than those derived from high-frequency radio facilities.

(3) 252.270-7303, Coding and Modulation Requirements for 4800 Bit/Second Modems; when acquiring 4800 bits per second (bps) modems to be used with nominal 4kHz analog channels.

(4) 252.270-7304, Coding and Modulation Requirements for Duplex 9600 Bit/Second Modems; when acquiring duplex 9600 bits per second (bps) modems for use with "four-wire" nominal 4kHz analog transmission channels.

(5) 252.270-7305, Coding and Modulation Requirements for Duplex 600 and/or 1200 Bits/Second Modems; when acquiring duplex 600 and/or 1200 bits per second (bps) modems to be used with 4kHz analog transmission channels terminated by "two-wire" circuits.

(6) 252.270-7306, Electrical Characteristics of Balanced Voltage Digital Interface Circuits; when there is a requirement to acquire equipment which must satisfy the electrical characteristics of balanced voltage digital interface circuits employed for the interchange of serial binary information which is conveyed at the direct current (DC) baseband level at signaling rates of up to 10 megabits per second.

(7) 252.270-7307, Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits; when there is a requirement to acquire equipment which must satisfy the electrical characteristics of unbalanced voltage digital interface circuits employed for the interchange of serial binary information conveyed at the direct current (DC) baseband level of signaling rates of up to 100 kilobits per second.

(8) 252.270-7308, Group 2 Facsimile Apparatus for Document Transmission; when acquiring Group 2 facsimile equipment.

(9) 252.270-7309, Cryptographic Components, Equipment, Systems, and Services; when acquiring these items to be used in a telecommunication environment and this clause is more appropriate for use than the one indicated at 270.1103(a)(16).

(10) 252.270-7310, Acquisition, Design, or Development of Group 3 Facsimile Apparatus; when acquiring, designing or developing Group 3 facsimile equipment. This clause is not applicable to equipments subject to Military Standard 188-161 or equipments to be used in the transmission of mixed mode information (e.g., code character data and image data).

(11) 252.270-7311, Acquisition, Design, or Development of Group 1, 2, and 3 Facsimile Apparatus; when acquiring, designing or developing Group 1, 2, and 3 facsimile equipment.

(d) The contracting officer shall include the following clauses properly completed, in solicitations and contracts in accordance with agency procedures:

(1) 252.270-7401, BASIC Language Compilers, when an acquisition includes a BASIC compiler.

(2) 252.270-7402, FORTRAN Language Compilers, when an acquisition includes a FORTRAN compiler.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

Subpart 270.12—The Federal Computer Performance Evaluation and Simulation Center

270.1201 The Federal Computer Performance Evaluation and Simulation Center.

(a) *General.* The Federal Computer Performance Evaluation and Simulation Center (FEDSIM) is operated by the Department of the Air Force under a delegation of authority from the Administrator of the General Services Administration. It provides technical assistance, support, and services on a reimbursable basis for simulation, analysis, and performance evaluation of automatic data processing systems and is the primary source for these services.

(b) *Services available.*

(1) Services available nationally are comprised of FEDSIM resources and FEDSIM-monitored contractual services for computer services simulation and performance evaluation. These services include simulation languages and packages for computer system simulations, software and hardware monitors for computer system performance evaluation, and special software programs designed to support computer system simulation and performance evaluation efforts, such an accounting systems analysis and workload modeling. The Center's services also include ADP support services such as those provided by simulation analysts.

(2) The services that the Center provides are intended to be temporary in nature and in response to specific questions or problems. A continuous simulation and performance evaluation program in support of individual user operations is not intended.

(c) *Policy for obtaining FEDSIM services.*

(1) FEDSIM shall be considered as the primary source of supply for ADP simulation and computer performance evaluation requirements, services, and products, including but not limited to, computer systems simulators and hardware and software monitors.

(2) The Center advises agencies whether (i) FEDSIM resources or FEDSIM contracts are available; (ii) an ADP schedule is available as a source of supply; or (iii) a new acquisition action is necessary.

(3) If the Center is unable to fulfill the requirement or if the requirement can be more economically fulfilled through commercial sources, the agency may acquire the services.

(d) *Procedures for obtaining FEDSIM services.*

(1) DoD components requiring ADP simulation, computer performance evaluation assistance, hardware performance monitors, software performance monitoring packages, or other computer performance evaluation products or services, shall contact the Center. The mailing address is: Department of the Air Force, Federal Computer Performance Evaluation and Simulation Center (FEDSIM), Washington, DC 20330.

(2) The Center, consistent with the lowest cost alternative or combination of alternatives, will take one of the following four actions:

(i) Provide services from its own resources on a reimbursable basis to the requesting agency.

(ii) Acquire, on a reimbursable basis, the necessary support from commercial sources for the requesting agency.

(iii) Advise the requesting agency's acquisition activity how to acquire necessary support from the ADP schedule or other existing contractual instruments or how to initiate an acquisition action for the services. resources for the

(iv) Recommend to GSA that GSA acquire required requesting agency (where unusual legal or acquisition policy issues so dictate).

(3) If no action involving a request for services is taken by the Center within 20 workdays after acknowledgment of receipt of full information from an agency, the agency may proceed without further references to the Center.

Subpart 270.13—Sharing of Computer Resources

270.1300 Scope of subpart.

This subpart provides direction relating to use of existing resources as an alternative to the acquisition of additional resources.

270.1301 Policy.

DoD Components are required to consider sharing and use of existing resources in accordance with DoD Manual 7950.1-M, Departmental procedures, and OMB Circular A-121 as an economical and efficient means of meeting their needs.

270.1302 Government-wide sharing procedures.

(a) DoD Components shall not initiate the process of selection and acquiring resources unless it has first made a reasonable effort to determine that the required capability cannot be met economically and efficiently by using existing resources on a shared basis. If the result of screening is unsuccessful, the basis for this determination shall be documented in the contract file.

(b) DoD components are required to include a statement relative to this screening procedure when submitting agency procurement requests (APRs).

270.1303 Federal data processing centers (FDPC).

(a) *Services available from FDPCs.* FDPC's provide many ADP services and ADP support services. GSA, through informational bulletins, will announce the availability of specific services and associated costs.

(b) *Point of contact.* Activities that require any FDPC services that have not been provided through the procedures set forth in 270.1302 may contact General Services Administration (KMA), Washington, DC 20405, or the appropriate FDPC.

270.1304 Federal Software Exchange Program.

The Federal Software Exchange Program is operated by GSA or its authorized representative pursuant to the overall policy guidance and direction of GSA. The program applies to common-use software developed or revised by either Government or contractor personnel. It is not applicable to software that is classified, developed at private expense, or developed with revolving funds where reimbursement of all costs is required. It is not applicable to software to which the Government does not possess full rights of ownership. For the purpose of this subpart, common-use software is that which:

(a) Deals with problems common to many agencies, that would be useful to other agencies, and is written in such a way that minor variations in requirements can be accommodated without significant programming effort. Examples of such software are: management business applications, computer systems support and utility programs, simulators, scientific or engineering applications, programming aids which are application-independent, and bibliographic or textual programs;

(b) Has been tested and proven operational for at least 90 days and is maintained by or for a Federal agency; and

(c) Is composed of stand-alone subroutines, programs, or subsystems; i.e., not dependent on special or unique hardware options or software features unless such options or features can be readily translated or simulated for hardware other than the original and can be similarly useful on different hardware.

270.1304-1 Procedures.

(a) DoD components having requirements for software that they plan to acquire from commercial sources shall screen existing Federal ADP software resources by reviewing the Federal Software Exchange Catalog or by obtaining assistance from the Federal Software Exchange Center (FSEC) to meet its software requirements.

(b) Programs or systems listed in the Federal Software Exchange Catalog are available through the FSEC, which will contact the contributing agency for the requested documentation and/or programs.

(c) The FSEC will make a copy of both the documentation and the program to be kept on file for future requests. The FSEC will provide the software package to the requesting agency at the published price.

270.1304-2 Federal Software Exchange Center.

The functions of the Federal Software Exchange Center (FSEC) include:

(a) Maintaining a central library of summary descriptions of common-use programs and systems, including a complete index of this inventory and master copies of requested programs, systems and documentation.

(b) Editing, screening, and compiling agency abstracts of common-use programs or systems submitted for exchange by Federal agencies.

(c) Functioning as a central point of contact with agencies for information and dissemination of available software.

(d) Publishing and distributing the basic Federal Software Exchange Catalog with periodic updates.

(e) Assisting Federal agencies in identifying currently available software to satisfy their requirements.

(f) Assisting agencies in obtaining information concerning technical problems with software released through FSEC.

(g) Notifying agencies of changes to software obtained through FSEC.

270.1304-3 DoD component requirements.

DoD Components are required to:

(a) Continually review software within the agency to identify programs or systems which would be of use to other agencies meeting the criteria set forth in 270.1304 and notify FSEC of changes and programs no longer maintained.

(b) Submit abstracts of programs meeting the criteria in 270.1304 to FSEC, National Technical Information Service, Springfield, VA 22151, on Standard Form (SF) 185, Federal Information Processing Standard Software Summary. Common-use programs and systems meeting the specified criteria will be described and reported to FSEC on a continuing basis.

(c) Notify FSEC, using SF 185, of changes to software previously reported. Such changes should have been adequately tested to ensure the effective performance of the software.

(d) Notify FSEC, using SF 185, of previously reported programs that the agency no longer maintains. (Reports shall be made within 30 days after terminating maintenance.)

270.1304-5 Federal Software Exchange Catalog availability.

The Federal Software Exchange Catalog of common-use programs and systems may be obtained from the National Technical Information Service, Springfield, VA 22151. Revisions of the catalog are published quarterly.

Subpart 270.14—Reuse of Computer Equipment

270.1400 Scope of subpart.

This subpart sets forth policies and procedures regarding the reuse of computer equipment.

270.1401 Reassignment of computer equipment within DoD.

(a) The policies and procedures relating to the reassignment of computer equipment within the Department of Defense is contained in DoD Manual 7950.1-M, Defense Automation Resources Management Manual.

(b) Installed Government-leased computer equipment need not be physically replaced by reassigned Government-owned computer equipment if retention of the leased computer equipment is more economical. In these circumstances, the agency should initiate action to return Government-owned computer equipment to the manufacturer/supplier in exchange for the title to the leased computer equipment.

(c) The reassignment of Government-leased computer equipment that is no longer required for the purpose and use for which it was originally acquired is a sole-source contracting action and, therefore, must be accomplished as such.

(d) The use of computer equipment for cannibalization for a parts source of supply shall not be made until excess reutilization requirements of other agencies are determined.

[51 FR 46418, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

270.1402 Excess or exchange/"sale" computer equipment.

Each DoD component shall report Government-owned or -leased computer equipment that is excess to its needs or Government-owned computer equipment that is contemplated to be replaced pursuant to the exchange/"sale" authority in accordance with DoD 7950.1-M. Policies and procedures for reporting exchange/"sale" of computer equipment are contained in DoD 7950.1-M.

270.1403 Reutilization of excess and exchange/"sale" computer equipment.

(a) DoD components shall be responsible for determining whether their ADP requirements can be efficiently and economically satisfied by using excess ADP equipment. To obtain maximum reutilization and to minimize the acquisition of the new computer equipment, excess and exchange/"sale" computer equipment shall be made available for transfer to other Federal agencies in accordance with DoD 7950.1-M.

(b) Excess auxiliary or accessorial computer equipment with an original acquisition cost (OAC) of $1,500 or less shall be made available for transfer to other Federal agencies.

(c) Any need for excess (but not obsolescent-excess) computer equipment expressed by a Federal agency shall take precedence over surplus disposal, provided such need is made known prior to shipment, or delivery in case of donation, or prior to contract award in case of "sale".

(d) Without exception, holding agencies shall solicit both requesting agency "sale" and vendor exchange (trade-in) offers when using exchange/"sale" authority (see 270.322).

270.1404 Considerations for use of excess Government-owned or -leased computer equipment.

(a) *Government-owned excess computer equipment.* DoD components shall consider excess Government-owned computer equipment as a replacement for installed leased computer equipment or in meeting new requirements if the excess Government-owned computer equipment has the capability to fulfill the requirement and represents the lowest overall cost to the Government. The reutilization of excess Government-owned computer equipment is not a contracting action.

(b) *Government-leased excess computer equipment.*

(1) The reutilization of excess leased computer equipment is an acquisition and requires justification for use of other-than-full and open competition (see FAR 6.303) or the equipment be selected as a result of a full and open competitive solicitation.

(2) Since excess leased computer equipment accrues substantial purchase option credits, agencies shall consider this equipment as replacement for installed leased computer equipment which has accrued fewer credits to the Government. This type of replacement shall not be considered a contracting action.

270.1405 Use of the ADP fund.

(a) Government-owned excess ADPE systems or items with a GSA estimated fair market value of at least $250,000 will be screened by GSA for possible reutilization. GSA will incorporate appropriate systems or items in the availability list. These systems or items will be leased to agencies by the ADP Fund at 50 percent of the fair market value determined by GSA. Ownership of the equipment will remain with the GSA ADP Fund.

(b) When leased excess ADPE with purchase option credits can satisfy agency data processing requirements, GSA will consider using the ADP Fund to purchase the equipment for the requesting agency when purchase is in the best economic interest of the Government and the agency does not have purchase funds available.

(c) DoD components may seek use of the ADP Fund for acquisition of exchange/"sale" ADPE if it is determined that the acquisition is economically advisable, the following requirements are met, and the DoD component can certify that:

(1) It has complied with applicable provisions of 270.302;

(2) It does not have funds programmed, nor can it reprogram funds for this purpose; and

(3) It cannot divert funds planned for other ADPE acquisitions with lesser rates of return, if any, for this purpose.

(d) When a DoD component proposes to request transfer of exchange/"sale" ADPE which it desires to acquire through the ADP Fund, the requesting activity shall submit a letter of intent to the General Services Administration (KXM), Washington, DC 20405. This letter shall include the projected period of equipment use; the requested terms of reimbursement.

e.g., quarterly reimbursement for 3 years; the agency point of contact (with address and telephone number); and the shipping address, instructions, and fund citations for transportation and ADP Fund reimbursement. In addition, the requestor shall submit certifications that demonstrate the agency's compliance with the conditions listed in paragraph (c) of this section.

(e) The use of the ADP Fund for acquisitions of exchange/"sale" ADPE must be approved by GSA before a holding agency may honor the requesting agency's hold.

PART 271—RECOVERY OF NONRECURRING COSTS ON COMMERCIAL SALES OF DEFENSE PRODUCTS AND TECHNOLOGY AND OF ROYALTY FEES FOR USE OF DOD TECHNICAL DATA

Sec.
271.000 Scope.
271.001 Definitions.
271.002 Policy.
271.003 Applicability.
271.004 Contract clause.
271.005 Waivers (including reductions).
271.006 Department of Defense (DoD) focal points.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

SOURCE: 54 FR 11728, Mar. 22, 1989, unless otherwise noted.

271.000 Scope.

This part sets forth policy and procedures established in DoD Directive 2140.2 for the recovery of nonrecurring costs and royalty fees on commercial sales by contractors of products, components, and related technology developed with DoD appropriations or, in special cases, with Foreign Military Sales (FMS) customer funds. The policy applies to material, equipment, licenses, derivative items, computer software, and technical data. The objective of recovery is to ensure that a non-U.S. Government customer pays a fair share of the nonrecurring investment costs incurred by the Department of Defense or a foreign government.

271.001 Definitions.

As used in this part: "Derivative Item" means an item derived from a Defense item which consists of common parts equal to, or more than, 10 percent of the Defense item.

"Direct Sale" means a commercial sale to a non-U.S. Government customer, either foreign or domestic, by a Defense contractor of products, technology, material, services, or development or production techniques that originally were developed, or improved using DoD appropriations or funds.

"DoD Focal Points"—See 271.006.

"Foreign Military Sale (FMS)" means a sale, by the DoD, of Defense articles or Defense services to a foreign government or international organization under authority of the Arms Export Control Act.

"License" means the legal right to use technical data with or without compensation and with or without restrictions.

"Nonrecurring Costs (NC)" includes DoD costs as follows:

"(a) The costs funded by a Research, Development, Test, and Evaluation (RDT&E) appropriation to develop or improve the product or technology under consideration either through contract DoD or in-house effort. This includes costs of any engineering change proposal initiated before the date of calculation of the NC recoupment charges as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned.

(b) The costs funded by either procurement or operation and maintenance (O&M) appropriations in support of production. These are one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. These NC include DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. This includes costs of any engineering change proposals initiated before the date of calculations of the NC recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made in accordance with the FAR or DoD FAR Supplement.

"Non-U.S. Contractor" means a contractor or subcontractor organized or existing under the laws of a country other than the United States, its territories, or possessions.

"Pro Rata Recovery of Nonrecurring Costs" means equal distribution (proration) of a pool of nonrecurring costs to a specific number of units that benefit from the investment so that a DoD Component will collect from a customer a fair (pro rata) share of the investment in the product being sold.

"Royalty Fee" means a charge that is assessed for the use of DoD technical data for the purpose of manufacturing an item for a non-U.S. Government customer. The purpose of the charge is to recoup an appropriate share of the DoD NC incurred to develop the technical data and technology.

"Scheduled Nonrecurring Recoupment Charges" means charges published in a DoD Directive, Instruction, or Manual. Royalty fee percentages are published in DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology." Unit charges on specific items of equipment are published in DoD 5105.38-M, "Security Assistance Management Manual", and DoD 7290.3-M, "FMS Financial Management Manual."

"Special RDT&E and Nonrecurring Production Costs" means costs incurred at the request of, or for the benefit of, a foreign customer to develop a special feature or unique requirement.

"Technical Data" is defined in 227.471.

"Technology" means information of any kind that can be used or adapted for use in the design, production, manufacture, utilization, or reconstruction of articles or material. The data may take a tangible form, such as a scale model, prototype, blueprint, or an operating manual, or may take an intangible form, such as technical advice to implement DoD Directive 2140.2.

271.002 Policy.

(a) It is the policy of the Department of Defense to recover a fair share of its investment in nonrecurring costs related to products, and/or a fair price for its contribution to the development of related technology, when the products are sold, and/or when technology is transferred to a foreign government, international organization, foreign commercial firm, or domestic organization (hereafter referred to collectively as "customers") for coproduction, assembly or licensed production for the same or derivative items. This fair share is recovered through the assessment of nonrecurring recoupment charges or royalty fees established by the DoD.

(b) In selected cases, it is DoD policy to recover, on behalf of a foreign government or international organization, a fair share of the nonrecurring costs for a special feature or product paid by the foreign government or international organization under an FMS case where subsequent non-U.S. Government customers purchase the same specialized feature(s). The U.S. Government will normally not collect this recoupment on behalf of a foreign government beyond eight years from the date of the acceptance of the original DoD Offer and Acceptance (DD Form 1513) that included the nonrecurring investment.

271.003 Applicability.

(a) These policies apply to those products and technologies that were developed with DoD appropriations or funds, and in special cases foreign customer funds, on which a nonrecurring recoupment charge or royalty fee has been or will be established.

(b) In the absence of an established recoupment amount, full recovery of the nonrecurring cost charge/royalty fee is required. It is incumbent upon the contractor to notify the U.S. Government of all pending commercial sales that may be subject to a recoupment charge so that the appropriate charge may be established and identified to the contractor.

(c) Revised charges shall be effective as of the date of revision and shall not be retroactively applied to past sales or to sales consummated by a written contract between the parties before the effective date of the revised charge.

(d) The policies do not apply when the sale is to a U.S. Government organization or when a contract is awarded by DoD under the Foreign Military Sales Program. When a sale is made under authority of the FMS Program, charges prescribed by DoD Directive 2140.2 shall be assessed by the DoD official responsible for the presentation of the DD Form 1513. Such charges shall not be included in the contract price.

271.004 Contract clause.

(a) To assure the recovery of an appropriate share of DoD investment in nonrecurring costs, the clause at 252.271-7001, "Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DoD Technical Data", shall be included in all RDT&E and production contracts and subcontracts of $1 million or more. This clause requires the contractor and qualifying subcontractors to pay to the U.S. Government the amounts established by the U.S. Government in the event of the contractor's commercial sale or transfer of products or related technology, that meet the criteria of 271.003.

(b) The determination of amount to be reimbursed to the U.S. Government for the commercial sale, coproduction or licensed production of products and components and for transfer of technology is provided at 252.271-7001. The recoupment charge is based upon information recorded in DoD accounting records or DoD budget justification documents and DoD estimates of quantities to be produced. The Military Department may consult with the contractor to obtain contractor marketing assessments. The charge will be established by the DoD in accordance with DoD Directive 2140.2. If an issue concerning the amount cannot be resolved, the Military Department will, within 90 days, request guidance from the Director, Defense Security Assistance Agency. The contractor may request that a charge be reviewed if significant changes in factors or assumptions have occurred.

(c) When a contractor negotiates the sale, coproduction or licensed production, or transfer of technology, of a DoD developed item or a derivative of a DoD developed item, the contractor will request the appropriate charge from the DoD Focal Point set forth in 271.006.

271.005 Waivers (including reductions).

(a) Waiver or reduction of the charges prescribed may be approved for a commercial sale based upon the same criteria for waivers granted under FMS or if the domestic sale is in the best interest of the United States to satisfy a demonstrable right of the manufacturer or the purchaser or to obtain advantage to the U.S. Government.

(b) *Request for Waivers.* (1) A waiver shall not be approved for a sale once consummated, unless the acceptance was conditional upon approval of the waiver. A waiver shall not be granted in connection with a direct commercial sale if such a waiver could not have been granted legally in connection with a sale made under the FMS Program.

(2) Requests for waivers associated with foreign sales should originate with the foreign government and shall be submitted to the Director of the Defense Security Assistance Agency. The request shall contain information regarding the extent of standardization and a statement of facts regarding the program, benefits expected and other justification, and any calculations necessary to quantify the waiver and the benefits to the U.S. Government. Waivers will be evaluated on a case-by-case basis only, and blanket waivers will not be considered. Any waiver approved for a direct commercial sale to a foreign government requires a certification by the Contractor that reductions have been passed on to the customer. The Director of the Defense Security Assistance Agency is the only waiver approval authority.

(3) Requests for waivers associated with domestic sales may originate with a DoD Component, or a defense con-

tractor (Vice President or higher) and shall be submitted to the Under Secretary of Defense of Acquisition (USD(A)). The request shall contain information regarding the dollar value of the waiver, benefit to be derived by the Department of Defense, the names of foreign and domestic competitors, impact on the U.S. Government balance of payments, demonstrable rights of the manufacturer or purchaser, and any other justification for the waiver. Blanket waiver requests are discouraged, but may be granted in extraordinary circumstances.

271.006 Department of Defense (DoD) focal points.

DoD Focal Points maintain a central data base on established charges. The DoD Focal Points are as follows:

(a) *Army:*
U.S. Army Security Affairs Command
ATTN: AMSAC-RP
5001 Eisenhower Avenue
Alexandria, VA 22333-001

(b) *Navy:*
Commanding Officer
Navy International Logistics Control Office
700 Robbins Avenue (Code 10)
Philadelphia, PA 19111-5095

(c) *Air Force:*
Chief, Security Assistance Division
Deputy Comptroller Cost and Economics
Department of the Air Force
Washington, DC 20330-5018

Appendix A—Armed Services Board of Contract Appeals

Approved 1 May 1962.
Revised 1 May 1969.
Revised 1 September 1973.
Revised 1 July 1979.

PART 1—CHARTER

1. There is created the Armed Services Board of Contract Appeals which is hereby designated as the authorized representative of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy and the Secretary of the Air Force, in hearing, considering and determining appeals by contractors from decisions of contracting officers or their authorized representatives or other authorities on disputed questions. These appeals may be taken (a) pursuant to the Contract Disputes Act of 1978 (41 U.S.C. Sec. 601, et seq.), (b) pursuant to the provisions of contracts requiring the decision by the Secretary of Defense or by a Secretary of a Military Department or their duly authorized representative or board, or (c) pursuant to the provisions of any directive whereby the Secretary of Defense or the Secretary of a Military Department has granted a right of appeal not contained in the contract on any matter consistent with the contract appeals procedure. The Board may determine contract disputes for other departments and agencies by agreement. The Board shall operate under general policies established or approved by the Under Secretary of Defense (Research and Engineering).

2. Membership of the Board shall consist of attorneys at law who have been qualified in the manner prescribed by the Contract Disputes Act of 1978. Members of the Board are hereby designated Administrative Judges. There shall be appointed from members of the Board a chairman and two or more vice-chairmen. Appointment of the chairman and vice-chairmen and other members of the Board shall be made by the Under Secretary of Defense (Research and Engineering) and the Assistant Secretaries of the Military Departments responsible for procurement. The chairman and vice-chairmen shall serve in that capacity for a two-year term unless sooner removed or reappointed for an additional term or terms. The Under Secretary will also designate the order in which the vice-chairmen will act for the chairman in his absence. In the absence of a vice-chairman, the chairman or acting chairman may designate a member of the Board to serve as a temporary vice-chairman.

3. It shall be the duty and obligation of the members of the Armed Services Board of Contract Appeals to decide appeals on the record of the appeal to the best of their knowledge and ability in accordance with applicable contract provisions and in accordance with law and regulation pertinent thereto.

4. The chairman of the Board shall be responsible for establishing appropriate divisions of the Board to provide for the most effective and expeditious handling of appeals. He shall be responsible for assigning appeals to the divisions for decision without regard to the military department or other procuring agency which entered into the contract. A division may consist of one or more members of the Board. The chairman shall designate one member of each division as the division head. The division heads and the chairman and vice-chairmen shall constitute the senior deciding group of the Board. A majority of the members of a division or of the senior deciding group shall constitute a quorum for the transaction of the business of each, respectively. Decisions of the Board shall be by majority vote of the members of a division participating and the chairman and a vice-chairman, unless the chairman refers the appeal for decision by the senior deciding group. The decision of the Board in cases so referred to the senior deciding group shall be by majority vote of the participating members of that group. The chairman may refer an appeal of unusual difficulty, significant precedential importance, or serious dispute within the normal decision process for decision by the senior deciding group. An appeal involving $50,000 or less may be decided by a single member or fewer members of the Board than heretofore provided for cases of unlimited dollar amount, under accelerated or expedited procedures as provided in the Rules of the Board and the Contract Disputes Act of 1978.

5. The Board shall have all powers necessary and incident to the proper performance of its duties. Subject to the approval of the Under Secretary of Defense (Research and Engineering) and the Assistant Secretaries of the Military Departments responsible for procurement, the Board shall adopt its own methods of procedure, and rules and regulations for its conduct and for the preparation and presentation of appeals and issuance of opinions. The Military Departments and other procuring agencies shall provide legal personnel to prepare and present the contentions of the departments or agencies in relation to appeals filed with the Board. It shall not be necessary for the Board, unless it otherwise desires, to communicate with more than one trial attorney in each of the departments or agencies concerning the preparation and presentation of appeals and the obtaining of all records deemed by the Board to be pertinent thereto.

6. Any member of the Board or any examiner, designated by the chairman, shall be

authorized to hold hearings, examine witnesses, and receive evidence and argument for consideration and determination of the appeal by the designated division. A member of the Board shall have authority to administer oaths and issue subpoenas as specified in Section 11 of the Contract Disputes Act of 1978. The chairman may request orders of the court in cases of contumacy or refusal to obey a subpoena in the manner prescribed in that Section.

7. The Chairman shall be responsible for the internal organization of the Board and for its administration. He shall provide within approved ceilings for the staffing of the Board with non-member personnel, including hearing examiners, as may be required for the performance of the functions of the Board. The chairman shall appoint a recorder of the Board. Such personnel shall be responsible to and shall function under the direction, supervision and control of the chairman.

8. The Board will be serviced by the Department of the Army for administrative support for its operations as required. Administrative support will include budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security administration, supplies, and other administrative services. The Departments of the Army, Navy, Air Force and the Office of the Secretary of Defense will participate in financing the Board's operations on an equal basis and to the extent determined by the Assistant Secretary of Defense (Comptroller). The cost of processing appeals for departments and agencies other than those in the Department of Defense will be reimbursed.

9. The chairman of the Board will furnish the Secretary of Defense and to the Secretaries of the Military Departments by October 31 of each year a report containing an account of the Board's transactions and proceedings for the preceding fiscal year. Within 30 days following the close of a calendar quarter, the chairman shall forward a report of the Board's proceedings for the quarter to the Under Secretary of Defense (Research and Engineering), the Assistant Secretaries of the Military Departments responsible for procurement, and to the Director of the Defense Logistics Agency. Such reports shall disclose the number of appeals received, cases heard, opinions rendered, current reserve of pending matters, and such other information as may be required.

10. The Board shall have a seal bearing the following inscription: "Armed Services Board of Contract Appeals." This seal shall be affixed to all authentications of copies of records and to such other instruments as the Board may determine.

11. This revised charter is *effective April 21, 1980.*

Approved:

W. Graham Claytor, Jr.,
Deputy Secretary of Defense.

Clifford L. Alexander, Jr.,
Secretary of the Army.

E. Hidalgo,
Secretary of the Navy.

Hans M. Mark,
Secretary of the Air Force.

PART 2—RULES

Approved 15 July 1963.
Revised 1 May 1969.
Revised 1 September 1973.
Revised 30 June 1980.

Preface

I. Jurisdiction for Considering Appeals

The Armed Services Board of Contract Appeals (referred to herein as the Board) shall consider and determine appeals from decisions of contracting officers pursuant to the Contract Disputes Act of 1978 (Public Law 95-563, 41 U.S.C. 601-613) relating to contracts made by (i) the Departments of Defense, Army, Navy and Air Force or (ii) any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal.

II. Location and Organization of the Board

(a) The Board's address is Skyline Six, 5109 Leesburg Pike, 7th Floor, Falls Church, VA 22041, telephone (202) 756-8500 (receptionist), 756-8502 (recorder).

(b) The Board consists of a chairman, two or more vice chairmen, and other members, all of whom are attorneys at law duly licensed by a state, commonwealth, territory, or the District of Columbia. Board members are designated Administrative Judges.

(c) There are a number of divisions of the Armed Services Board of Contract Appeals, established by the Chairman of the Board in such manner as to provide for the most effective and expeditious handling of appeals. The Chairman and a Vice Chairman of the Board act as members of each division. Appeals are assigned to the divisions for decision without regard to the military department or other procuring agency which entered into the contract involved. Hearing may be held by a designated member (Administrative Judge), or by a duly authorized examiner. Except for appeals processed under the expedited or accelerated procedure, the decision of a majority of a division constitutes the decision of the Board, unless the chairman refers the appeal to the Board's Senior Deciding Group (consisting of the chairman, vice chairmen and all division heads), in which event a decision of a majority of that group constitutes the decision of the Board. Appeals referred to the Senior Deciding Group are those of unusual difficulty, significant precedential importance, or serious dispute within the normal division decision process. For decisions of appeals processed under the expedited or accelerated procedure, see Rules 12.2(c) and 12.3(b).

Preliminary Procedures

1. *Appeals, How Taken.* (a) Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken.

(b) Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in subparagraph (a) above, citing the failure of the contracting officer to issue a decision.

(c) Where the contractor has submitted a properly certified claim over $50,000 to the contracting officer or has requested a decision by the contracting officer which presently involves no monetary amount pursuant to the Disputes clause, and the contracting officer has failed to issue a decision within a reasonable time, taking into account such factors as the size and complexity of the claim, the contractor may file a notice of appeal as provided in subparagraph (a) above, citing the failure of the contracting officer to issue a decision.

(d) Upon docketing of appeals filed pursuant to (b) or (c) hereof, the Board may, at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

(e) In lieu of filing a notice of appeal under (b) or (c) hereof, the contractor may request the Board to direct the contracting officer to issue a decision in a specified period of time, as determined by the Board, in the event of undue delay on the part of the contracting officer.

2. *Notice of Appeal, Contents of.* A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the department and/or agency involved in the dispute, the decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal should be signed personally by the appellant (the contractor taking the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

3. *Docketing of Appeals.* When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writing shall be given to the appellant with a copy of these rules, and to the contracting officer.

4. *Preparation, Content, Organization, Forwarding, and Status of Appeal File.* (a) *Duties of Contracting Officer*—Within 30 days of receipt of an appeal, or notice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board an appeal file consisting of all documents pertinent to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract, including pertinent specifications, amendments, plans and drawings;

(3) All correspondence between the parties relevant to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered relevant to the appeal.

Within the same time above specified the contracting officer shall furnish the appellant a copy of each document he transmits to the Board, except those in subparagraph (a)(2) above. As to the latter, a list furnished appellant indicating specific contractual documents transmitted will suffice.

(b) *Duties of the Appellant*—Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board any documents not contained therein which he considers relevant to the appeal, and furnish two copies of such documents to the government trial attorney.

(c) *Organization of Appeal File*—Documents in the appeal file may be originals or legible facsimiles or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthly Documents*—Upon request by either party, the Board may waive the requirement to furnish to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party files with the Board a document as to which such a waiver has been granted he shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of Documents in Appeal File*—Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object, for reasons stated, to consideration of a particular document or documents reasonably in advance of hearing or, if there is no hearing, of settling the record. If such objection is made, the Board shall remove the document or documents from the appeal file and permit the party offering the document to move its admission as evidence in accordance with Rules 13 and 20.

(f) Notwithstanding the foregoing, the filing of the Rule 4(a) and (b) documents may be dispensed with by the Board either upon request of the appellant in his notice of appeal or thereafter upon stipulation of the parties.

5. *Motions.* (a) Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may defer its decision on the motion pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own initiative to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

(b) The Board may entertain and rule upon other appropriate motions.

6. *Pleadings.* (a) *Appellant*—Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed, to the extent known. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. Upon receipt of the complaint, the Board shall serve a copy of it upon the Government. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth its complaint and the Government shall be so notified.

(b) *Government*—Within 30 days from receipt of the complaint, or the aforesaid notice from the Board, the Government shall prepare and file with the Board an original and two copies of an answer thereto. The answer shall set forth simple, concise and direct statements of Government's defenses to each claim asserted by appellant, including any affirmative defenses available. Upon receipt of the answer, the Board shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

(c) A party who intends to raise an issue concerning the law of a foreign country shall give notice in his pleadings or other reasonable written notice. The Board, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under Rules 11, 13 or 20. The determination of foreign law shall be treated as a ruling on a question of law.

7. *Amendments of Pleadings or Record.* The Board upon its own initiative or upon application by a party may order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

8. *Hearing Election.* After filing of the Government's answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

9. *Prehearing Briefs.* Based on an examination of the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

10. *Prehearing or Presubmission Conference.* (a) Whether the case is to be submitted pursuant to Rule 11 or heard pursuant to Rules 17 through 25, the Board may upon its own initiative, or upon the application of either party, arrange a telephone conference or call upon the parties to appear before an administrative judge or examiner of the Board for a conference to consider:

(1) Simplification, clarification, or severing of the issues;

(2) The possibility of obtaining stipulations, admissions, agreements and rulings on admissibility of documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(3) Agreements and rulings to facilitate discovery;

(4) Limitation of the number of expert witnesses, or avoidance of similar cumulative evidence;

(5) The possibility of agreement disposing of any or all of the issues in dispute; and

(6) Such other matters as may aid in the disposition of the appeal.

(b) The administrative judge or examiner of the Board shall make such rulings and orders as may be appropriate to aid in the disposition of the appeal. The results of pretrial conferences, including any rulings and orders, shall be reduced to writing by the administrative judge or examiner and this writing shall thereafter constitute a part of the record.

11. *Submission Without a Hearing.* Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submissions to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with Rule 23.

12. *Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures.*

These procedures are available solely at the election of the appellant.

12.1 *Elections to Utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures.* (a) In appeals where the amount in dispute is $10,000 or less, the appellant may elect to have the appeal processed under a SMALL CLAIMS (EXPEDITED) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in section 12.2 of this Rule. An appellant may elect the ACCELERATED procedure rather than the SMALL CLAIMS (EXPEDITED) procedure for any appeal eligible for the SMALL CLAIMS (EXPEDITED) procedure.

(b) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an ACCELERATED procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in section 12.3 of this Rule.

(c) The appellant's election of either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure may be made by written notice within 60 days after receipt of notice of docketing, unless such period is extended by the Board for good cause. The election may not be withdrawn except with permission of the Board and for good cause.

12.2 *The SMALL CLAIMS (EXPEDITED) Procedure.* (a) In cases proceeding under the SMALL CLAIMS (EXPEDITED) procedure, the following time periods shall apply:

(1) Within 10 days from the Government's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure, the Government shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; remaining documents required under Rule 4 shall be submitted in accordance with times specified in that rule unless the Board otherwise directs.

(2) Within 15 days after the Board has acknowledged receipt of appellant's notice of election, the assigned administrative judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties: (i) Identify and simplify the issues; (ii) establish a simplified procedure appropriate to the particular appeal involved; (iii) determine whether either party wants a hearing, and if so, fix a time and place therefor; (iv) require the Government to furnish all the additional documents relevant to the appeal; and (v) establish an expedited schedule for resolution of the appeal.

(b) Pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled, or if no hearing is scheduled, to close the record on a date that will allow decisions within the 120-day limit. The Board, in its discretion, may impose shortened time periods for any actions prescribed or allowed under these rules, as necessary to enable the Board to decide the appeal within the 120-day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(c) Written decision by the Board in cases processed under the SMALL CLAIMS (EXPEDITED) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single administrative judge. If there has been a hearing, the administrative judge presiding at the hearing may, in the judge's discretion, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

(d) A decision against the Government or the contractor shall have no value as precedent, and in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

12.3 *The ACCELERATED Procedure.* (a) In cases proceeding under the ACCELERATED procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs. The Board, in its discretion, may shorten time periods prescribed or allowed elsewhere in these Rules, including Rule 4, as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the ACCELERATED procedure, and may reserve 30 days for preparation of the decision.

(b) Written decision by the Board in cases processed under the ACCELERATED procedure will normally be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single administrative judge with the concurrence of a vice chairman, or by a majority among these two and the chairman in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the ACCELERATED procedure has been elected and in which there has been a hearing, the single administrative judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after entertaining such oral arguments as deemed appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes, and to establish the starting date for the period for filing a motion for reconsideration under Rule 29.

12.4 *Motions for Reconsideration in Rule 12 Cases.* Motions for Reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure need not be decided within the original 120-day or 180-day limit, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

13. *Settling the Record.* (a) The record upon which the Board's decision will be rendered consists of the documents furnished under Rules 4 and 12, to the extent admitted in evidence, and the following items, if any: pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, post-hearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will, at all reasonable times, be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

14. *Discovery—Depositions.* (a) *General Policy and Protective Orders*—The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When Depositions Permitted*—After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on Despositions*—The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as Evidence*—No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions to supplement the record.

(e) *Expenses*—Each party shall bear its own expenses associated with the taking of any deposition.

(f) *Subpoenas*—Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 21.

15. *Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents.* After an appeal has been docketed and complaint filed with the Board, a party may serve on the other party: (a) Written interrogatories to be answered separately in writing, signed under oath and answered or objected to within 45 days after service; (b) a request for the admission of specified facts and/or the authenticity of any documents, to be answered or objected to within 45 days after service; the factual statements and the authenticity of the documents to be deemed admitted upon failure of a party to respond to the request; and (c) a request for the production, inspection and copying of any documents or objects not privileged, which reasonably may lead to the discovery of admissible evidence, to be answered or objected to within 45 days after service. The Board may allow a shorter or longer time. Any discovery engaged in under this Rule shall be subject to the provisions of Rule 14(a) with respect to general policy and protective orders, and of Rule 35 with respect to sanctions.

16. *Service of Papers Other Than Subpoenas.* Papers shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of complaints, answers and briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in Rule 21.

Hearings

17. *Where and When Held.* Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, Rule 12 requirements, and other pertinent factors. On request or motion by either party and for good cause, the Board may, in its discretion, adjust the date of a hearing.

18. *Notice of Hearings.* The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearings shall be promptly acknowledged by the parties.

19. *Unexcused Absence of a Party.* The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

20. *Hearings: Nature, Examination of Witnesses.* (a) *Nature of Hearings*—Hearings shall be as in formal as may be reasonable and appropriate under the circumstances. Appellant and the Government may offer such evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence or in the sound discretion of the presiding administrative judge or examiner. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) *Examination of Witnesses*—Witnesses before the Board will be examined orally under oath or affirmation, unless the presiding administrative judge or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may advise the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

21. *Subpoenas.* (a) *General*—Upon written request of either party filed with the recorder, or on his own initiative, the administrative judge to whom a case is assigned or who is otherwise designated by the chairman may issue a subpoena requiring:

(i) Testimony at a deposition—the deposing of a witness in the city or county where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(ii) Testimony at a hearing—the attendance of a witness for the purpose of taking testimony at a hearing; and

(iii) Production of books and papers—in addition to (i) or (ii), the production by the witness at the deposition or hearing of books and papers designated in the subpoena.

(b) *Voluntary Cooperation*—Each party is expected (i) to cooperate and make available witnesses and evidence under its control as requested by the other party, without issuance of a subpoena, and (ii) to secure voluntary attendance of desired third-party witnesses and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) *Requests for Subpoenas*—

(1) A request for subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought; or

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books and papers sought.

(d) *Requests to Quash or Modify*—Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the Board may (i) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (ii) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; Issuance*—

(1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at a time and place therein specified. In issuing a subpoena to a requesting party, the administrative judge shall sign the subpoena and may, in his discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781-1784.

(f) *Service*—

(1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the Government, money payments need not be tendered in advance of attendance.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the books or papers the witness has produced.

(g) *Contumacy or Refusal to Obey a Subpoena*—In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

22. *Copies of Papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Post-Hearing Briefs.* Post-hearing briefs may be submitted upon such terms as may be directed by the presiding administrative judge or examiner at the conclusion of the hearing.

24. *Transcript of Proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Waiver of transcript may be especially suitable for hearings under Rule 12.2. Transcripts of the proceedings shall be supplied to the parties at such rates as may be established by contract between the Board and the reporter, provided that ordinary copy of transcript shall be supplied to the appellant at an amount no greater than the cost of duplication.

25. *Withdrawal of Exhibits.* After a decision has become final the Board may, upon request and after notice to the other party,

in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

26. *The Appellant.* An individual appellant may appear before the Board in person, a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

27. *The Government.* Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney in the form specified by the Board from time to time.

Decisions

28. *Decisions.* (a) Decisions of the Board will be made in writing and authenticated copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions (except those required for good cause to be held confidential and not cited as precedents) shall be open for public inspection at the offices of the Board. Decisions of the Board will be made solely upon the record, as described in Rule 13.

(b) Any monetary award to a contractor by the Board shall be promptly paid in accordance with the procedures provided by section 1302 of the Act of July 27, 1956 (70 Stat. 694, as amended; 31 U.S.C. 724a). To assure prompt payment the Recorder will forward a waiver form to each party with the decision. If the parties do not contemplate an appeal or motion for reconsideration, they will execute waivers which so state, and return them to the Recorder. The Recorder will forward the waivers and a certified copy of the award decision to the General Accounting Office for certification for payment.

Motion for Reconsideration

29. *Motion for Reconsideration.* A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Suspensions, Dismissals and Defaults: Remands

30. *Suspensions; Dismissal Without Prejudice.* The Board may suspend the proceedings by agreement of counsel for settlement discussions, or for good cause shown. In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

31. *Dismissal or Default for Failure to Prosecute or Defend.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may, in the case of a default by the appellant, issue an order to show cause why the appeal should not be dismissed or, in the case of a default by the Government, issue an order to show cause why the Board should not act thereon pursuant to Rule 35. If good cause is not shown, the Board may take appropriate action.

32. *Remand from Court.* Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board shall consider the reports and enter special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, such orders shall conform to these rules.

Time, Computation and Extensions

33. *Time, Computation and Extensions.* (a) Where possible, procedural actions should be taken in less time than the maximum time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time shall be in writing.

(b) In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

Ex Parte Communications

34. *Ex parte Communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal, submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures.

Sanctions

35. *Sanctions.* If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Effective Date and Applicability

36. *Effective Date.* These rules shall apply (i) mandatorily, to all appeals relating to contracts entered into on or after 1 March 1979, and (ii) at the contractor's election, to appeals relating to earlier contracts, with respect to claims pending before the contracting officer on 1 March 1979 or initiated thereafter.

Pursuant to the Charter of the Armed Services Board of Contract Appeals, the attached rules are hereby approved for use and application to appeals to the Armed Services Board of Contract Appeals under the Contract Disputes Act of 1978.

(signed) WILLIAM J. PERRY (30 JUN 1980),
Under Secretary of Defense for Research and Engineering.

(signed) PERCY A. PIERRE,
Assistant Secretary of the Army (Research, Development and Acquisition).

(SIGNED) J.A. DOYLE,
Assistant Secretary of the Navy (Manpower, Reserve Affairs and Logistics)

(signed) EUGENE H. KOPF,
(Acting) Assistant Secretary of the Air Force (Research, Development and Logistics).

[51 FR 46441, Dec. 23, 1986, as amended at 53 FR 38197, Sept. 29, 1988]

Appendices B-C—[Reserved]

Appendix D—Notice and Hearing Under Gratuities Clause

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Appendix—Form of Notice

Notice and Hearing Under Gratuities Clause

D-1. Introduction

10 U.S.C. 2207 requires all contracts, other than contracts for personal services which call for the expenditures of funds appropriated for the Department of Defense, to contain a clause permitting the termination of the contractor's right to proceed under any such contract and permitting the Government to pursue the remedies that it could pursue in the event of breach of contract if it is found after notice and hearing by the Secretary of the Department with which the contract was made, or by his duly authorized representative, that gratuities (in the form of entertainment, gifts or otherwise) were offered or given by the contractor or by his agent or representative to any officer or employee of the Government with a view toward securing a Government contract or favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such contract. The Military Departments have prescribed the use of such clause, as set forth in the Armed Services Procurement Regulation, paragraph 7-104.16, in contracts as required by the above Act and in other procurement contracts. It is the purpose of these rules to make provisions for the giving of the notice of hearing, for the conduct of the hearing, and for other procedural matters incident to the exercise of the rights and special remedies provided by the prescribed clause, wherever it is now or may hereafter be used in contracts of the Military Departments. In the interest of uniformity in proceedings before the three Military Departments, those rules are hereby adopted. Nothing herein shall be construed to affect or impair (1) the pursuit of other remedies available to the Government in any instance, or (2) the right of termination of any contract for any reason available to the Government under the terms of such contract.

D-2. Definitions

Department. The term "*Department*" means the Department of the Army, the Department of the Navy, or the Department of the Air Force.

Secretary. The term "*Secretary*" means the Secretary, the Under Secretary, or any Assistant Secretary of any Military Department.

Designee. The term "*Designee*" means the person or board to whom authority has been delegated by the Secretary under Rule 3. The designee is the Secretary's authorized representative.

D-3. Delegation of Authority

The Secretary may delegate to any person, military or civilian, or board of such persons within his Department all the authority of the Secretary conferred by statute or the prescribed contract clause to give notice of hearings, to conduct hearings and to make findings of fact with respect to (i) whether a gratuity was offered or given by a contractor or any agent or representative of such contractor to a Government officer or employee with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performance of such contract; and (ii) where appropriate, the amount of the costs incurred by the contractor in providing such gratuity. If the Secretary delegates his authority to a board, one of the members thereof shall be a person trained in the law, and the Secretary shall designate one member to be the presiding officer of the board.

D-4. Notice and Contents

Whenever information coming to the attention of the Department indicates that the procedures provided herein may be properly invoked, the Department may cause a written notice to be served upon the contractor in the manner hereinafter provided. The notice shall be signed by the Secretary of his designee and dated and shall include the following items:

(i) A statement of the time, place, and purpose of the hearing, and the authority and jurisdiction under which it will be held. The statement as to purpose need only identify the contract clause, the contract or contracts involved and the ultimate facts to be determined. The time of the hearing shall not be less than 10 days after service of the notice.

(ii) Brief allegations setting forth the circumstances surrounding the offering or giving of the gratuity, including a description of the alleged gratuity itself and its estimated cost to the contractor; an identification of the offeree or donee and of the offeror or donor and the latter's relationship to the contractor; and the approximate date and place of the alleged offer or gift. Such allegations need be only sufficient to apprise the contractor reasonably of the issues involved in the hearings.

(iii) A request that the contractor answer in writing the allegations of the notice, including in his answer such facts or arguments as he may wish, and that he attend the hearing to adduce such evidence with respect to the alleged offer or gift as he may desire.

A suggested form of notice is set out as an appendix to these rules.

D-5. Service of Notice

Service shall be made by mailing or delivering a copy of the notice to the contractor. Delivery of a copy means handing it to the party to be served, or, if the party is a corporation, partnership, or unincorporated association, handing it to an officer, partner, managing or general agent, or any other agent authorized by appointment or by law to receive service of process, or by leaving the copy at the contractor's office with the person in charge thereof. Service by mail shall be made only by certified mail and service shall be complete upon mailing. The manner of service shall be evidenced by the signed endorsement of the person making the service upon a copy of the notice to be included in the record of the proceeding. Service of notice may be accepted or waived by the contractor by written endorsement on a copy of the notice.

D-6. Continuances and Delays

The authority to grant continuances or to adjourn the hearing shall rest with the person presiding at the hearing. Continuances will only be allowed for the most compelling reasons.

D-7. Parties

The parties to the hearing will be the contractor concerned and the Government. No intervention by other persons shall be permitted.

D-8. Representation and Hearing Assistants

The parties may be represented at the hearing and proceedings incident thereto by legal counsel. Upon the appearance of record of legal counsel of the contractor in the proceedings, service of papers as may thereafter be required may be made upon such legal counsel. The Department will make available such technical assistants, including a reporter, secretary or notary, as may be required.

D-9. Transcript

Testimony and arguments shall be reported verbatim. The reporter or secretary shall make available to the contractor and to the Government transcripts of the proceedings, including all testimony and copies of all documentary exhibits upon the payment of the reasonable costs thereof as the Department may by order fix.

D-10. Hearings

Hearings shall be conducted by the Secretary or his designee. Hearings will be as informal as may be reasonably appropriate under all the circumstances. Evidence and testimony, although not ordinarily admissible under legal rules of evidence, may be received subject to the discretion of the person presiding at the hearing. Immaterial, irrevelant, or unduly repetitious evidence shall be excluded. The parties may stipulate as to any facts or testimony. The testimony of witnesses shall be under oath and witnesses shall be subject to cross-examination. The hearing officer shall make such rulings with respect to the conduct of hearings as circumstances may require to ensure the orderly and expeditious presentation of evidence in a manner fair to the parties and consistent with these Rules and requirements of due process of law.

D-11. Depositions

Following service of the notice of hearing, a deposition may be taken as herein provided, and placed in evidence whenever the ends of justice will be served thereby.

(a) *Notice to Take.* When either party desires to take a deposition, unless the parties stipulate as to the time when, and place where, the deposition is to be taken, the name of the officer before whom it is to be taken, and the names and addresses of the witnesses, the moving party shall give to the opposite party at least ten days' notice of the time when and the place where such deposition will be taken, the name and address and official title of the officer before whom it is proposed to take the deposition, and the names of the witnesses. A deposition may be taken either upon written interrogatories or upon oral examination, as may be specified in the notice. If the deposition is to be taken upon written interrogatories, copies thereof must accompany the notice to take depositions; if the opposite party desires to submit cross-interrogatories, written cross interrogatories should be served upon the party giving the notice within 5 days from the receipt of the notice to take the deposition. Notices may be served upon the contractor as provided by Rule 4 or upon his legal counsel of record. Service upon the Government may be made upon the person signing the notice of hearing or the Government representative of record. If service is made by mail, the mail shall be registered and service will be complete upon mailing.

(b) *Taking Depositions.* Depositions may be taken before and authenticated by any officer, military or civil, authorized by the laws of the United States or by the laws of the place where the deposition is taken, to administer oaths. Witnesses shall be under oath and shall be subject to cross-examination as at the hearing. Objections will be reserved for determination at the hearing; *provided*, however, objections as to the form of questions shall be made and noted in the deposition. Each deposition shall show the caption of the proceeding, the place and date of taking, the names of the witnesses, and the party by whom called. The officer taking a deposition shall enclose the original deposition and exhibits, in a sealed packet, with postage or other transportation prepaid, and forward the same to the Secretary or his designee.

(c) *Use of Deposition.* Testimony taken by deposition will not be considered until offered in whole or in part and received in evidence. A deposition taken by one party may be offered by the opposite party.

D-12. Submissions Without Appearance: Absence of Parties

If the contractor fails or refuses to appear or to make a written submission without appearing at the hearing, the hearing shall proceed upon such evidence as the Government may offer. The unexcused absence of any party shall not be occasion for delay of the hearing. Nothwithstanding the nonappearance of the contractor at the hearing, proposed findings, conclusions, and argument may be submitted in writing on the contractor's behalf as provided in Rule 13.

D-13. Argument and Request for Findings

Within the discretion of the person presiding at the hearing, limited oral argument may be presented by the parties upon the completion of the hearing. Within ten days after the hearing is completed, both parties may file in writing with the person or board conducting the hearing proposed findings and conclusions with reasons and argument in support thereof. Copies will be provided to the opposite party.

D-14. Findings and Decision

As soon as practicable after completion of the hearing and the timely submission of proposed findings and conclusions, the person or board that conducted the hearing shall make written findings and conculsions with respect to all material issues; reasons for the findings will be included at such length as may be appropriate. The findings where adverse to the contractor will include, in addition to other appropriate items, the following: (i) A description of the gratuity that was offered or given; (ii) a statement of the costs incurred by the contractor in providing the gratuity; (iii) the name and relationship to the contractor of the person by whom the gratuity was offered or given on the contractor's behalf; (iv) the name and position of the officer or employee of the Government to whom the gratuity was offered or given; (v) a description of the contract which the Contractor sought to secure by the offering or giving of the gratuity, or a statement as to the nature of the favorable treatment so sought with respect to the awarding or amending, or the making of any determinations with respect to the performing of a contract. When the findings are made by a designee they shall be forwarded to the Secretary with recommendations as to whether the right of the contractor to proceed under any contract mentioned in the notice of hearing shall be terminated, and as to the exemplary damages to be imposed against the contractor, which shall be in an amount which shall not be less than three nor more than ten times the costs incurred in providing the gratuity.

Approved this 5th day of July 1952.

(Signed) EARL D. JOHNSON,
Assistant Secretary of the Army.

(Signed) H.R. ASKINS,
Assistant Secretary of the Navy.

(Signed) ROSWELL L. GILPATRIC,
Under Secretary of the Air Force.

Appendix to Rules

Form of Notice

BEFORE THE ——————————
OF THE ——————————

In the Matter of the XYZ Corporation,

Contract ——— : Proceedings
Pursuant to Clause ——— of
Contract No. ——————————
File No. ——————————

To: XYZ Corporation,
Rockefeller Plaza, New York City, New York

1. You are hereby notified that at ——— M. on ——— 1952, at room ——— of the ——— Building, ———, a hearing will be held before ——— to determine whether or not under the provisions of clause ——— of Government contract ——— a gratuity has been offered or given on behalf of the XYZ Corporation to an officer or employee of the Government of the United States with a view toward securing (a contract) (favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of a contract). If it is found that a gratuity was so offered or given, your right to proceed under the contract may be terminated, and a penalty imposed in accordance with the contract clause mentioned above. In the event of such termination the Government will be entitled to pursue the remedies available for breach of contract.

2. The hearing at the time and place aforesaid will be held under the authority of (cite applicable Public Law and clause of contract(s)). Enclosed is a copy of the Rules promulgated by the Secretary of the ——— pursuant to which the hearing will be conducted. Papers pertaining to the proceedings may be captioned as above.

3. The contract(s) involved in the hearing, and which is (are) subject to termination if a gratuity is found to have been given or offered to secure favorable action as aforesaid, is (are) identified as follows:

Contract number ——— dated ——— under the cognizance of ——— and executed by ——— on behalf of the Government as the Contracting Officer.

4. The gratuity offered or given and the circumstances relating thereto are alleged to be as follows: (Include in a concise statement the nature of the alleged gratuity; a fair estimate of the costs incurred by the contractor in providing the gratuity; the identity of the offeree or donee and his position with the Government; the identity of the offerer or donor and his relationship to the contractor; and the approximate date, time, and place of the alleged offer or gift. Also allege, as appropriate, that the gratuity was (offered) (given) with a view toward securing a Government contract or favorable treatment with respect to the awarding or amending, or the making of a determination with respect to the performing of a Government contract. Identify or describe the contracts involved). On proof of the facts alleged as aforesaid, the Government, in accordance with the applicable statutory and contract provisions mentioned in paragraph 2, may terminate your right to proceed under the contract identified in paragraph 3 and to pursue the remedies available for breach of contract; also to impose exemplary damages as provided in such law and contract provision.

5. If you desire to be heard in this matter, you are requested to file with the Department on or before the time of the hearing a written answer and to appear at the hearing.

Dated ——————————
By direction of the ——————————
of the ——————————

NOTE.—Portions set apart by parentheses should be stricken or modified as appropriate to conform to the facts.

[51 FR 46526, Dec. 23, 1986]

Appendices E-H—[Reserved]

Appendix I—Material Inspection and Receiving Report

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Part 1—Introduction

I-101 General.

(a) This appendix sets forth procedures and instructions for the use, preparation, and distribution of the Material Inspection and Receiving Report (MIRR) (DD Forms 250 Series) and suppliers commercial shipping/packing lists used to evidence Government Procurement Quality Assurance (PQA).

(b) MIRRs are used to document Procurement Quality Assurance, Acceptance of supplies and services, and shipments; they are used by receiving, status control, technical, contracting, inventory control, requisitioning, and paying activities. MIRRs shall not be used for:

(i) Shipments by subcontractors where direct shipment is not made to the Government; or

(ii) Shipment of contract inventory.

(c) The contractor shall prepare the MIRR with the exception of those entries required to be completed by the authorized Government representative.

(d) To preclude delays in shipments, payments, and avoid multiple corrections, contractors are encouraged to consult with the cognizant Government representing regarding implementation of this appendix.

(e) Standard abbreviations may be used.

(f) Where optional methods are permitted in this appendix, the exercise of the opinion shall be at the discretion of the contractor.

I-102 Applicability.

(a) The provisions of this appendix are applicable to supplies or services procured by the Department of Defense (DoD) when the Material Inspection and Receiving Report clause (see 7-104.62) is included in the contract. If the contract contains the fast payment procedure (see 7-104.84), the contractor may elect not to prepare a DD Form 250 and include additional information on his invoice.

(b) When the Department of Defense provides PQA and/or Acceptance services for non-DoD activities, the MIRR shall be prepared in accordance with the instructions of this appendix unless otherwise specified in the contract.

I-103 Use.

(a) the DD Form 250 is a multi-purpose report used for:

(i) PQA—to provide evidence of PQA at origin or destination;

(ii) Acceptance—to provide evidence of acceptance at origin or destination;

(iii) Packing List;

(iv) Receiving;

(v) Shipping;

(vi) Contractor Invoice;

(vii) Contractor Commercial Invoice Support; and

(viii) Contractor Internal Use.

(b) The DD Form 250-1 is used when bulk movements of petroleum products are made by tanker or barge to cover:

(i) Origin acceptance of cargo;

(ii) Shipment of Government-owned product;

NOTE: This Form may also be used to transmit quality data to the point of acceptance in the case of origin inspection on FOB destination deliveries or preinspection at product source. When so used, it shall be annotated "INSPECTED FOR QUALITY ONLY."

(iii) Destination acceptance of cargo;

(iv) Receipt of Government-owned product.

I-104 Application.

(a) *DD Form 250:*

(1) The DD Form 250 shall be used for delivery of contract line, subline, exhibit line or exhibit subline items, except for those exhibit line or exhibit subline items on a DD Form 1423 that indicate no DD Form 250 is required.

(2) If the "Shipped To," "Marked For," "Shipped From," "Mode of Shipment," "PQA" and "Acceptance" data are the same for more than one shipment made on the same day under the same contract, one MIRR may be prepared to cover all such shipments.

(3) If the volume of the shipment precludes the use of a single car, truck or other vehicle, a separate MIRR shall be provided for the contents of each vehicle.

(4) When a shipment is consigned to an Air Force activity and the shipment includes items of more than one Federal Supply Class or Materiel Management Code (MMC), a separate DD Form 250 shall be prepared for items of each of the Federal Supply Classes or MMC included in the shipment. However, the cognizant Government representative may authorize a single DD Form 250 listing each of the Federal Supply Classes or MMC included in the shipment on a separate continuation sheet. The MMC appears as a suffix to the National Stock Number (NSN) applicable to the item.

(5) Consolidation of Petroleum Shipments on a single MIRR—

(i) *Continental United States:* Multiple car or truck load shipments of petroleum made on the same day, to the same destination, against the same contract line item, may be consolidated on one MIRR. To permit verification of motor deliveries, each load shall be assigned a load number which can be identified to the shipment number in Block 2 of the DD Form 250. Individual loads shall be accompanied by a shipping document (commercial or Government) showing as a minimum, the shipper, shipping point, consignee, contract and line item number, product identification, gross gallons (bulk only), loading temperature (bulk only), API gravity (bulk only), identification of carrier's equipment, serial number of all seals applied, and signature of supplier's representative. When acceptance is at destination, the receiving activity shall retain the shipping document(s) to verify the entries on the consignee copy of the DD Form 250 forwarded by the contractor (ref: I-401, Table I) prior to signing Block 21B.

(ii) *Overseas:* The same criteria as for continental United States applies except the consolidation period may be extended to a time frame acceptable to the receiving activity, shipping activity, Government finance office and the authorized Government Representative having cognizance at the contractor's facility. In addition, more than one contract line item may be included provided the "Shipped To," "Marked For," "Shipped From," "Mode of Shipment," "PQA" and "Acceptance" data are the same for all.

(6) Consolidation of Coal Shipments on a single MIRR-Multiple railcar or truck shipments of coal made on the same day, to the same destination, against the same contract line item, may be consolidated on one MIRR. To permit verification of truck deliveries, each load shall be assigned a load number which can be identified to the shipment number in block 2 of the DD Form 250 and the attached analytical test report. Individual truck loads shall be accompanied by a commercial shipping document showing as a minimum the shipper, the name or names, location and shipping point of the mine or mines from which the coal originates, the contract number, the exact size of the coal shipped, and a certified weighmaster's certificate of weight for the truckload. Rail shipments will be accompanied by a waybill showing the identical information. To permit verification of rail deliveries, each railcar number comprising the shipment shall be identified to the shipment number in block 2 of the DD Form 250 and the attached analytical test report. When acceptance is at destination, the receiving activity shall retain the shipping docment(s) to verify the entries on the consignee copy of the DD Form 21B.

(b) *DD Form 250-1:*

(1) A separate form shall be used for each tanker or barge cargo loaded. More than one barge in the same tow may be reported on a single form if on the same contract and consigned to the same destination. When liftings involve more than one contract, separate forms shall be prepared to cover the portion of cargo loaded on each contract. A separate form shall be prepared for each product or grade of product loaded.

(2) A separate document shall be used for each tanker or barge cargo and each grade of product discharged. More than one barge in the same tow may be reported on a single form if from the same loading source.

I-105 Forms.

(a) Contractors may obtain from the Contract Administration Office, upon request, and at no cost, MIRR forms required for use in connection with Government contracts.

(b) Contractors may print forms provided that the format and dimensions (*DD Forms*

250 and 250c; 8½ inches x 11 inches, DD Form 250-1: 8½ inches x 14 inches) are identical to the MIRR forms printed by the Government and that the forms are cast to provide for 78 characters per printed image horizontally and 62 lines vertically border to border for the DD Form 250, and 61 lines vertically border to border for the DD Form 250c.

I-106 Reproduction.

This appendix may be reproduced in whole or in part.

Part 2—PQA on Shipments Between Contractors

I-201 Instructions.

The supplier's commercial shipping document/packing list shall be used to indicate performance or required PQA actions at subcontract level. The following entries shall be made on the supplier's commercial shipping document/packing list.

Required PQA of listed items has been performed.

____

(Signature of Authorized Govt. Rep. or DoD Stamp)

(Date) ____________________________

(Typed Name and Office) ________________

Distribution for Government purposes shall be one copy:

(i) With shipment;

(ii) For the Government representative at consignee (via mail); and

(iii) For the Government representative at consignor.

Part 3—Preparation of the DD Form 250 and DD Form 250c

I-301 Preparation Instructions.

DD Form 250 (MIRR) and DD Form 250c (Continuation Sheet) shall be prepared as follows:

(a) *General:* (i) The date, where required, shall utilize seven spaces consisting of the last two digits of the year, three alphabetic month abbreviation, and two digits for the day. For example, 71AUG07, 71SEP24;

(ii) The address, where required, shall consist of the name, street address / P.O. Box, city, state and ZIP Code;

(iii) The Handbook of non-Government Organizations for MILSCAP (H8-1 / H8-2) code, Department of Defense Activity Address Directory (DODAAD) code or Military Assistance Program Address Directory (MAPAD) code (MAPAC and TAC) in accordance with DoD 5105.38-D when contained in the contract, shall be entered to the right of and on the same line as the word "CODE" in Blocks 9 through 12 and in Block 14. The DODAAD code, or MILSCAP (H8-1 / H8-2) code shall be entered in Block 13;

(iv) When the DD Form 250c is used, the data entered in the blocks at the top of the form shall be identical to the comparable entries as shown in Blocks 1, 2, 3 and 6 of the DD Form 250;

(v) Overflow data of the DD Form 250 shall be entered in Block 16 or in the body of the DD Form 250c with appropriate block cross reference. Additional DD Form 250c sheets, solely for continuation of Block 23 data shall not be numbered or distributed as part of the MIRR.

(b) *Classified Information.* Classified information shall not be included in or appear on the MIRR, nor shall the MIRR be classified.

Block 1—PROC INSTRUMENT IDEN (CONTRACT).

(a) Enter the 13 position alpha-numeric basic Procurement Instrument Identification (PII) number of the contract. When applicable, enter the four alpha-numeric call/order serial number which is supplementary to the 13 position basic PII number, *i.e.*, delivery orders under indefinite delivery type contracts, orders under basic ordering agreements and calls under blanket purchase agreements. This number shall be entered as shown in the examples below. Except as indicated in (b) below, do not enter supplementary numbers used in conjunction with basic PII numbers to identify (i) modifications of contracts and agreements or (ii) modifications to calls/orders or (iii) document numbers representing contracts written between contractors.

1. PROC INSTRUMENT IDEN (CONTRACT) | (ORDER) NO.
DABE01-66-C-0001

1. PROC INSTRUMENT IDEN (CONTRACT) | (ORDER) NO.
DABE01-67-A-0001-0001

(b) When shipping instructions are furnished by telephone/TWX message and shipment is made prior to receipt of the confirming contract modification (SF 30), the contract modification six digit number or the two digit call/order number which is provided in accordance with 19-204 will be entered immediately following the PIIN or call/order four digit SPIIN.

1. PROC INSTRUMENT IDEN (CONTRACT) | (ORDER) NO.
DABE01-66-C-0001-PV0001

1. PROC INSTRUMENT IDEN (CONTRACT) | (ORDER) NO.
DABE01-67-A-0001-0001AA

(c) For DoD delivery orders on non-DoD contracts, enter the non-DoD ontract number immediately below the PII number.

1. PROC INSTRUMENT IDEN (CONTRACT) | (ORDER) NO.
DSA400-68-F-1684
GS-00S-61917

(d) When a contract number other than PII number is used, enter that contract number.

Block 2—SHIPMENT NO.

(a) The shipment number is composed of a three alpha character prefix and a four numeric or alpha-numeric serial number.

(1) The shipment number prefix shall be controlled and assigned by the prime contractor and shall consist of three alphabetic characters for each "Shipped From" address (Block 11). The shipment number prefix shall be different for each "Shipped From" address and shall remain constant throughout the life of the contract. Separate prefixes may be assigned when shipments are made from different locations within a facility identified by one "Shipped From" address.

(2) The first shipment made under the contract or contract and order number shown in Block 1 from each "Shipped From" address, or shipping location within the "Shipped From" address, shall be numbered 0001. All subsequent shipments with the identification shipment number prefix shall be consecutively numbered.

a. Alpha-numeric serial numbers shall be used when more than 9,999 numbers are required. Alpha-numeric numbers shall be serially assigned with the alpha in the first position (the letters I and O shall not be used) followed by the three position numeric serial number. The following alpha-numeric sequence shall be used:

A000 through A999 (10,000 through 10,999)
B000 through B999 (11,000 through 11,999)
Z000 through Z999 (34,000 through 34,999)

b. When this series is completely used, numbering shall revert to 0001.

(b) The shipment number of the initial shipment shall be reassigned where a "Replacement Shipment" is involved (Block 16(c)(6)).

(c) The prime contractor shall control deliveries and on the final shipment of the contract shall suffix the shipment number with a "Z". Where the final shipment is from other than the prime contractor's plant, the prime contractor may elect either to: (i) Direct the subcontractor making the final shipment to suffix that shipment number with a "Z", or (ii) Upon determination that all subcontractors have completed their shipments, to correct the DD Form 250 (see I-305) covering the final shipment made from the prime contractor's plant by addition of a "Z" to that shipment number.

(d) When commercial invoices are used, see I-306.

Block 3—DATE SHIPPED. Enter the date the shipment is released to the carrier or the date of completion of services. If the shipment will be released after the date of PQA and/or Acceptance, enter the estimated date of release. When the date is estimated, enter an "E" after the date. Distribution of the MIRR shall not be delayed for entry of the actual shipping date. Reissuance of the MIRR is not required to show the actual shipping date.

Block 4—B/L TCN. When applicable, enter:

(a) The commercial or Government bill of lading number "B/L";

(b) The Transportation Control Number after "TCN" (When a TCN is assigned for each line item on the DD Form 250 in accordance with Block 16 instructions, insert "See Block 16."); and

(c) The initial (line haul) mode of shipment code in the lower right corner of the block (I-302).

Block 5—DISCOUNT TERMS. The discount, in terms of percentages and corresponding days allowed, shall be entered as described below:

(a) The contractor may, at his option, enter the discount terms on all copies of the MIRR.

(b) When the MIRR is used as an invoice, see I-306.

Block 6—INVOICE NO./DATE. Enter the invoice number and date as described below:

(a) The contractor may enter the invoice number and actual or estimated date of invoice submission on all copies of the MIRR. When the date is estimated, enter an "E" after the date. MIRRs other than invoice copies shall not be corrected to reflect the actual date of invoice submission.

(b) When the MIRR is used as an invoice, see I-306.

Block 7—PAGE/OF. Consecutively number the pages comprising the MIRR. On each page enter the total number of pages of the MIRR.

Block 8—ACCEPTANCE POINT. Enter an "S" for Origin or "D" for Destination.

Block 9—PRIME CONTRACTOR/CODE. Enter the code and address.

Block 10—ADMINISTERED BY/CODE. Enter the code and address of the Contract Administration Office (CAO) cited in the contract.

Block 11—SHIPPED FROM/CODE/FOB.

(a) Enter the code and address of the "Shipped From" location. If identical to Block 9, enter "See Block 9."

(b) For performance of services line items which do not require delivery of items upon completion of services, enter the code and address of the location at which the services were performed. If the DD Form 250 covers performance at multiple locations, or if identical to Block 9, enter "See Block 9."

(c) Enter on the same line and to the right of "FOB" an "S" for Origin or "D" for Destination as specified in the contract. Enter an alphabetic "O" if the "FOB" point cited in the contract is other than origin or destination. *NOTE*: For destination or origin acceptance shipments involving discount terms, enter "DISCOUNT EXPEDITE" in at least one-half inch outline-type style letters across Blocks 11 and 12. Do not obliterate the information in the "Code" box in these blocks.

Block 12—PAYMENT WILL BE MADE BY/CODE. Enter the code and address of the payment office cited in the contract. See NOTE under Block 11 above.

Block 13—SHIPPED TO/CODE. Enter the code and address as contained in the contractor shipping instructions.

Block 14—MARKED FOR/CODE. Enter the "Mark For" code and address contained in the contract or shipping instructions. When three-character project codes are provided in the contract or shipping instructions, enter the code in the body of the block, prefixed by "Proj"; do not enter in the code block.

Block 15—ITEM NO. Enter the contract line item, subline line, exhibit line or exhibit subline identification as set forth in the contract. If four or less digits are used, they will be positioned immediately to the left of the vertical dashed line and prefixed with zeros, if applicable to achieve four digits. Where a six digit identification containing alpha digits in the final two positions is used, enter the last two digits to the right of the vertical dashed line. Do not make an entry on the DD Form 250 for sublines/exhibit sublines which are included in and identified by numerics in the last two positions. Line item identifications not in accordance with the Uniform Contract Line Item Number System, Section XX, will be entered without regard to positioning.

Block 16—STOCK/PART No./DESCRIPTION.

(a) Enter, as applicable, for each line item using single or double spacing between each line item when there are less than four line items, or double spacing when there are four or more line items:

(1) The National Stock Number (NSN) or noncatalog number and if applicable, prefix or suffix; when a number is not provided or it is necessary to supplement the number, include other identification, *e.g.*, manufacturer's name or Federal Supply Code, as published in Cataloging Handbook H4-1, and part number, additional part numbers may be shown in parentheses or slashes; the descriptive noun of the item nomenclature and if provided, the Government assigned management/material control code. The following technique may be used in the case of equal kind supply items; the first entry shall be the description without regard to kind. For example, "Shoe Low Quarter-Black," "Resistor," "Vacuum Tube," etc. Below this description, enter the contract line item number in Block 15 and Stock/Part number followed by the size or type in Block 16.

(2) On the next printing line if required by the contract for control purposes enter: the make, model, serial number, lot, batch, hazard indicator and/or similar description.

(3) On the next printing lines: The MIPR number prefixed by "MIPR" or the MILSTRIP requisition number(s) when provided in the contract, or shipping instructions followed on the same line, when more than one requisition is entered, by the unit for payment and the quantity shipped against each requisition.

Example:

V0469601850750XY19059A—EA 5
N0018801776038XY3211BA—EA 200
AT650803050051AAT6391J—EA 1000

(4) When a TCN is assigned for each line item, enter on the next line the Transportation Control Number prefixed by "TCN".

(b) When acceptance of a service line item (as differentiating from supplies) is involved, enter the word "SERVICE" followed by as specific a description as is possible in no more than 20 additional characters. Some examples of service line items are maintenance, repair, alteration, rehabilitation, engineering, research, development, training, and testing. Do not complete Blocks 4, 13 and 14 when shipment of materiel is not involved in the service.

(c) For all contracts administered by Defense Contract Administration Services, with the exception of fast pay procedures, enter and complete the following:

Gross Shipping Wt. ———.

State weight in pounds only.

(d) In addition to entries required above, starting with the next line, enter the following as appropriate (entries may be extended through Block 20). When entries are applicable to more than one line item in the MIRR, such data may be entered only once after the last line item entry referencing applicable line item numbers:

(1) Enter in capital letters any special handling instructions/limits for material environmental control, *e.g.*, temperature, humidity, aging, freezing, shock, etc.

(2) When a shipment is chargeable to Navy appropriation 17X4911, enter the appropriation, Bureau Control Number (BCN), and Authorization Accounting Activity (AAA) Number (*e.g.*, 17X4911-14003-104).

(3) When the Navy transaction type code (TC), "2T" or "7T" is included in the appropriation data, enter "TC 2T" or "TC 7T".

(4) When an NSN is required by but not cited in a contract and has not been furnished by the Government, shipment may be made without such NSN at the direction of the contracting officer. Enter the authority for such shipment.

(5) When Government furnished property (GFP) is included with or incorporated into the line item, enter the letters "GFP".

(6) When shipment consists of replacements for supplies previously furnished, enter in capital letters "REPLACEMENT SHIPMENT." (See I-301, Block 17, for replacement indicators).

(7) On shipments of Government Furnished Aeronautical Equipment (GFAE) under Air Force contracts, the assignment AERNO control number will be entered, *e.g.*, "AERNO 60-6354."

(8) For items shipped with missing components, enter and complete the following: "Item(s) shipped short of the following component(s): NSN or comparable Identification ———, Quantity ———, Estimated Value ———, Authority ———."

(9) When shipment is made of components which were short on a prior shipment, enter and complete the following: "These components were listed as shortages on shipment number ———, date shipped ———."

(10) When shipments involve drums, cylinders, reels, containers, skids, etc., designated as returnable under contract provisions, enter and complete the following: "Return to ———, Quantity ———, Item ———, Ownership (*Government/contractor*)."

(11) Enter the total number of shipping containers, the type of containers, and the container number(s) assigned for the shipment.

(12) On Foreign Military Sales (FMS) or Military Assistance Program (MAP) (Grant Aid) shipments, enter the special markings, the applicable FMS country and case identifier or MAP Record Control/Program/Directive Number identifier as provided in the contract, and the gross weight.

(13) Reserved.

(14) Reserved.

(15) When test/evaluation results are a condition of acceptance and are not avail-

able prior to shipment, the following note shall be entered if the shipment is approved by the ACO/PCO: "Note: Acceptance and payment are contingent upon receipt of approved test/evaluation results." The ACO/PCO shall advise (a) the consignee of the results (approval/disapproval) and (b) the contractor to withhold invoicing pending attachment to his invoice of the approved test/evaluation results.

(16) The copy of the DD Form 250 required to support payment for destination acceptance (top copy of those with shipment) or ARP origin acceptance shall be identified as follows: Enter "PAYMENT COPY" in approximately one-half inch outline type style letters with "FORWARD TO BLOCK 12 ADDRESS" in approximately one-quarter inch letters immediately below. Do not obliterate any other entries.

(17) For Clothing and Textile contracts containing a bailment clause, enter the words "GFP UNIT VALUE."

(18) When the initial unit incorporating an approved Value Engineering Change Proposal (VECP) is shipped, enter the following statement:

This is the initial unit delivered which incorporates VECP No. ———, Contract Modification No. ———, dated ———.

Block 17—QUALITY SHIPPED/RECEIVED.

(a) Enter the quantity shipped, using the unit of measure indicated in the contract for payment. When a second unit of measure is used for purposes other than payment, enter the appropriate quantity directly below in parentheses.

(b) On the final shipment of a line item of a contract containing a clause permitting a variation of quantity and an underrun condition exists, the prime contractor shall enter a "Z" below the last digit of the quantity. Where the final shipment is from other than the prime contractor's plant and an underrun condition exists, the prime contractor may elect either to: (i) Direct the subcontractor making the final shipment to enter a "Z" below the quantity, or (ii) upon determination that all subcontractors have completed their shipments, correct the DD Form 250 (see I-305) covering the final shipment of the line item from the prime contractor's plant by addition of a "Z" below the quantity. The "Z" shall not be used on deliveries which equal or exceed the contract line item quantity.

(c) If a replacement shipment is involved, enter below the last digit of the quantity, the letter "A" to designate first replacement, "B" for second replacement, etc. The final shipment indicator "Z" on underrun deliveries shall not be used when a final line item shipment is replaced.

17. QUANTITY
SHIP/REC'D
1000
(10)
Z

(d) If the quantity received is the same quantity shipped and all items are in apparent good condition, indicate by a check mark. If different, enter actual quantity recieved in apparent good condition below quantity shipped and encircle. The receiving activity shall annotate the DD Form 250 stating the reason for the difference.

Block 18—UNIT. Enter the abbreviation of the unit measure as indicated in the contract for payment. Where a second unit of measure is indicated in the contract for purposes other than payment or used for shipping purposes, enter the second unit of measure directly below in parentheses. Authorized abbreviations are listed in MIL-STD-129 (Marking for Shipment and Storage). For example: LB for pound; SH for sheet.

18. UNIT
LB
(SH)

Block 19—UNIT PRICE. The contractor may, at his option, enter unit prices on all MIRR copies, except as a minimum:

(a) The contractor shall enter unit prices on all MIRR copies for each item of property fabricated or acquired for the Government and delivered to a contractor as Government-Furnished Property (GFP). The unit price shall be obtained from section B of the contract or, if not available, the unit price shall be estimated. The estimated price should be the contractor's estimate of what the items will cost the Government. When the price is estimated, enter an "E" after the unit price.

(b) When the MIRR is used as an invoice, see I-306.

(c) For clothing and textile contracts containing a bailment clause, enter the cited Government-Furnished Property unit value opposite "GFP UNIT VALUE" entry in Block 16.

(d) All copies of DD 250s for FMS shipments shall be priced using actual, or if not available, estimated prices. When the price is estimated, enter an "E" after the price.

Block 20—AMOUNT. Enter the extended amount when the unit price is entered in Block 19.

Block 21—PROCUREMENT QUALITY ASSURANCE.

(a) The words "conform to contract" contained in the printing statements in Blocks A and B relate to contract obligations pertaining to quality and to the quantity of the items on the report. The statements shall not be modified. Notes taking exception shall be entered in Block 16 or on attached supporting documents with appropriate block cross reference.

(b) When a shipment is authorized under Alternative Release Procedure, the appropriate contractor signed certificate shall be attached to or included on the top copy of the DD Form 250 copies distributed to the payment office or attached to the CAO copy when contract administration (Block 10 of the DD Form 250) is performed by DCAS.

(c) When contract terms provide for use of Certificate of Conformance and shipment is made under these terms, the contractor shall enter "Certificate of Conformance" in Block 21A on the next line following the PQA and Acceptance statements. The appropriate contractor signed certificate shall be attached to or included on the top copy of the DD Form 250 copies distributed to the payment office or attached to the CAO copy when contract administration (Block 10 of the DD Form 250) is performed by DCAS. In addition, a copy of the signed certificate shall also be attached to or entered on copies of the MIRR sent with shipment.

"A. ORIGIN"

(1) The authorized Government representative shall:

a. Place an "X" when applicable in the appropriate PQA and/or Acceptance box(es) to evidence origin Procurement Quality Assurance and/or Acceptance. When the contract requires PQA at destination in addition to origin PQA, an asterisk shall be entered at the end of the statement and an explanatory note entered in Block 16;

b. Enter the date of signature;

c. Sign; and

d. Enter the typed, stamped, or printed name and office DODAAD code.

(2) When Alternative Releases Procedures apply, the contractor or subcontractor shall complete the entries required under (1) a and d above and enter in capital letters "ALTERNATIVE RELEASE PROCEDURE" on the next line following the printed PQA/Acceptance statement. When acceptance is at origin and Contract Administration is performed by an office other than DCAS, the contractor shall furnish the four payment office copies of the MIRR to the Authorized Government Representative for dating and signing of one copy and forwarding of all copies to the payment office. When acceptance is at origin and contract administration is performed by DCAS, the Contract Administration Office copy of the MIRR shall be furnished to the Authorized Government Representative for dating and signing and forwarding to the Contract Administration Office (see I-401, Table 1).

(3) When Fast Pay procedures apply, the contractor or subcontractor shall enter in capital letters "FAST PAY" on the next line following the printed PQA/Acceptance statement. When PQA is required, the authorized Government representative shall execute the block as required by (1) above.

(4) When Certificate of Conformance procedures apply, inspection or inspection and acceptance are at source, and the contractor's Certificate of Conformance is required, the contractor shall make entries required by "A. ORIGIN" (1)*a* and *d* above. For contracts administered by an office other than DCAS, furnish the four payment office copies of the MIRR to the Authorized Government Representative for dating and signing of one copy, and forwarding of all copies to the payment office. For contracts administered by DCAS, the Contract Administration Office copy of the MIRR shall be furnished to the Authorized Government Representative for dating and signing and forwarding to the Contract Administration Office. (See I-401, Table 1.) When acceptance is at destination, no entry shall be made other than "CERTIFICATE OF CONFORMANCE."

"B. DESTINATION"

(1) When acceptance at origin is indicated in Block 21A, no entries shall be made in Block 21B.

(2) When PQA and Acceptance or Acceptance is at destination, the authorized Government representative shall:

a. Place an "X" in the appropriate box(es).

b. Enter the date of signature;

c. Sign; and

d. Enter typed, stamped, or printed name and title.

(3) When "ALTERNATIVE RELEASE PROCEDURE" is entered in Block 21A and acceptance is at destination, the authorized Government representative shall complete the entries required by B(2) above.

(4) The executed payment copy or MILSCAP Format Identifier PKN or PKP shall be forwarded to the payment office cited in Block 12 within four work days (*five days when MILSCAP Format is used*) after delivery and acceptance of the shipment by the receiving activity. One executed copy of the final DD Form 250 shall be forwarded to the contract administration office cited in Block 10 for implementing contract closeout procedures, except where a DCASR is cited as the payment office in Block 12.

(5) When "FAST PAY" is entered in Block 21A, no entries shall be made in this block.

Block 22—RECEIVER'S USE. This block shall be used by the receiving activity (Government or contractor) to denote receipt, quantity and condition. The receiving activity shall enter in this block the date the supplies arrived. For example, when off-loading or in-checking occurs subsequent to the day of arrival of the carrier at the installation, the date of the carrier's arrival is the date received for purposes of this block.

Block 23—CONTRACTOR USE ONLY. This block is provided and reserved for Contractor use.

I-302 MODE/METHOD OF SHIPMENT CODES

Code	Description
A	Motor, truckload.
B	Motor, less than truckload.
C	Van (unpacked, uncrated personal or Government property).
D	Driveaway, truckaway, towaway
E	Bus.
F	MAC Channel and Special Assignment Airlift Mission.
G	Surface parcel post.
H	Air parcel post.
I	Government trucks, for shipment outside local delivery area.
J	Air, small package carrier.
K	Rail, carload. [1]
L	Rail, less than carload. [1]
M	Surface, freight forwarder
N	LOGAIR.
O	Organic military air (including aircraft of foreign governments)
P	Through Government Bill of Lading (TGBL)
Q	Commercial air freight.
R	European Distribution System/Pacific Distribution System.
S	Scheduled Truck Service (STS) (applies to contract carriage, guaranteed traffic routings and/or scheduled service).
T	Air freight forwarder.
U	QUICKTRANS
V	SEAVAN.
W	Water, river, lake, coastal (commercial)
X	Bearer, walk-thru (customer pickup of material)
Y	Military Intratheater Airlift Service.
Z	Military Sealift Command (MSC), controlled, contract, or arranged space.
2	Government watercraft, barge, or lighter.
3	Roll On Roll Off (RORO) Service.
4	Armed Forces Courier Service (ARFCOS).
5	Surface, small package carrier.
6	Military official mail (MOM).
7	Express mail
8	Pipeline.
9	Local delivery by government or commercial truck including onbase transfers and deliveries between air, water, or motor terminals and adjacent activities. Local delivery areas are identified in commercial carriers' tariffs which are filed and approved by regulatory authorities.

[1] Includes Trailer/Container-On-Flat-Car (Excluding SEAVAN).

I-303 Consolidated Shipments.

When individual shipments are held at the contractor's plant for authorized transportation consolidation to a single destination on a single bill of lading, the applicable DD Forms 250 may be prepared at the time of Procurement Quality Assurance or Acceptance prior to the time of actual shipment. (See Block 3.)

I-304 Multiple Consignee Instructions.

When the identical line item(s) of a contract is to be shipped to more than one consignee, with the same or varying quantities, and requires origin acceptance, one MIRR may be prepared. Preparation shall be as prescribed in this appendix with the following changes:

(i) Blocks 2, 4, 13 and, if applicable, 14—Enter "See Attached Distribution List."

(ii) Block 15—Item numbers may be grouped for identical stock/part number and description.

(iii) Block 17—Enter the "total" quantity shipped by line item or, if applicable, grouped identical line items.

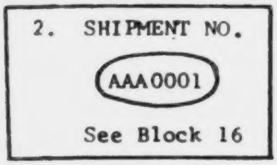
(iv) The DD Form 250c shall be used to list each individual "Shipped To" and "Marked For" with code(s) and complete shipping address and a sequential shipment number for each; line item number(s); quantity; MIPR number prefixed by "MIPR" or the MILSTRIP requisition number(s) and quantity for each when provided in the contract or shipping instructions; and if applicable, Bill of Lading number, TCN, and Mode of Shipment Code.

(v) Pages of DD Form 250c comprising the distribution list that are not applicable to the individual consignee may be omitted from the MIRR furnished that consignee. A complete MIRR shall be provided for all other distribution.

I-305 Correction Instructions.

When, because of errors or omissions, it is necessary to correct the MIRR after distribution has been made, a revised or new MIRR shall be effected by correcting the original master or preparing a new MIRR containing the identical data of the original MIRR and distributing the corrected form. MIRRs shall not be corrected for Block 19 and 20 entries. The corrections shall be made as follows:

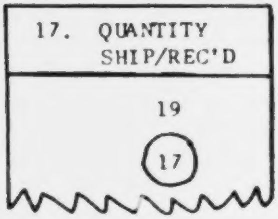
(i) Circle the error and place the corrected information in the same block; if space is limited, enter the corrected information in Block 16 referencing the error page and block. Enter omissions in Block 16 referencing omission page and block.



2. SHIPMENT NO.

AAA0001

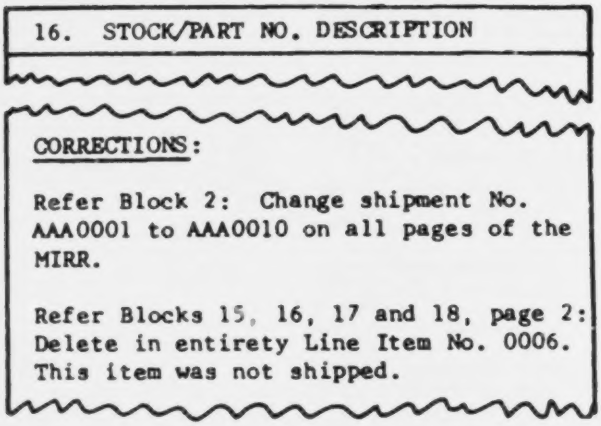
See Block 16



17. QUANTITY SHIP/REC'D

19

17



16. STOCK/PART NO. DESCRIPTION

CORRECTIONS:

Refer Block 2: Change shipment No. AAA0001 to AAA0010 on all pages of the MIRR.

Refer Blocks 15, 16, 17 and 18, page 2: Delete in entirety Line Item No. 0006. This item was not shipped.

(ii) When corrections have been made to entries for line items (Block 15) or quantity (Block 17) the words "CORRECTIONS HAVE BEEN VERIFIED" shall be entered on page 1. The authorized Government representative shall date and sign immediately below the statement. This verification statement and signature are not required for other corrections.

(iii) Pages of the MIRR requiring correction shall be clearly marked "CORRECTED COPY", avoiding obliteration of any other entries. Where correctiosn are made only on continuation sheets, page number 1 shall also be marked "CORRECTED COPY."

(iv) Page 1 and only those continuation pages marked "CORRECTED COPY" shall be distributed to the initial distribution. A complete MIRR with corrections shall be distributed to new addressee(s) created by error corrections.

I-306 Invoice Instructions.

Contractors are encouraged to use copies of the MIRR as an invoice, in lieu of a commercial form, but are not required to do so. If commercial forms are used, the related MIRR shipment number(s) shall be identified thereon. Copies of the MIRR used as an invoice are in addition to the standard distribution (I-401). The four invoice copies shall be prepared and forwarded to the payment office as follows:

(i) Complete Blocks 5, 6, 19 and 20. Column 20 shall be totalized.

(ii) Mark in letters approximately one inch high, first copy: "ORIGINAL INVOICE"; three copies: "INVOICE COPY".

(iii) Forward the four copies to the payment office (Block 12 Address), except when acceptance is at destination and a Navy Finance Office will make payment, forward to destination.

(iv) The invoice and the four "Payment Office" (Part 4, Table 1) copies of the MIRR shall not be fastened together.

I-307 Packing List Instructions.

Copies of the MIRR may be used as a packing list. When they are used, the packing list copies shall be in addition to the copies of the MIRR required for standard distribution (I-401) and shall be marked "PACKING LIST."

I-308 Receiving Instructions.

When the MIRR is used for receiving purposes, procedures shall be as prescribed by local directives. If PQA and Acceptance or Acceptance of supplies is required upon arrival at destination, see Block 21B for instructions.

Part 4—Distribution of DD Form 250 and DD Form 250c

I-401 Distribution.

(a) The contractor is responsible for distribution, including mailing and payment of postage, of DD Form 250 in accordance with Tables 1 and 2.

(b) Distribution of MIRRs shall be in accordance with and limited to the distribution and the quantities as provided in Tables 1 and 2. Air mail shall be used whenever it is faster than regular mail.

(c) Distribution of MIRRs on non-DoD contracts shall be in accordance with this Part as amended by the contract.

(d) Distribution shall be made promptly, but no later than the close of business of the work day following:

(i) Signing of the DD Form 250 (Block 21A) by the authorized Government representative, or

(ii) Shipment when authorized under terms of Alternative Release; Certificate of Conformance; or Fast Pay procedure, or shipment when PQA and Acceptance are to be performed at destination.

(e) The consignee copies (via mail) on overseas shipments shall *not* be sent to Port of Embarkation (POE). The copies shall be sent to consignee at APO/FPO address.

(f) Copies of the MIRR forwarded to a location for more than one recipient shall clearly identify each recipient.

TABLE 1—STANDARD DISTRIBUTION

With Shipment*	4
Consignee (*via mail*)	2
(*For Navy procurement, copies will be priced*)	
(For Grant Aid/Foreign Military Sales, consignee copies are not required).	
Contract Administration Office	1

TABLE 1—STANDARD DISTRIBUTION—Continued

(Forward direct to address in Block 10 except whe addressee is a DCASR, DCASD, or DCASO, and a Certi cate of Conformance (see I-301, Block 21(c)A(4)) or th Alternate Release Procedures (see I-301, Block 21(c)A(2) is involved, and acceptance is at origin; then, forwa through the Authorized Government Representative.)	
Purchasing Office	1
Payment Office**	4
(Forward direct to addressee in Block 12 except (i) whe addressee in Block 10 is a DCASR, DCASD, or DCASO and Payment Office in Block 12 is a DCASR do not mak distribution; (ii) when addressee in Block 12 is HQ AFCM attach only one copy to the required number of copies o the contractor's invoice; (iii) when acceptance is at desti nation and a Navy Finance Office will make paymen forward to destination; and (iv) when a Certificate o Conformance (see I-301, Block 21(c)A(4)) or the Alterna tive Release Procedures (see I-301, Block 21(c)A(2)) i involved and acceptance is at origin, forward the copie through the Authorized Government Representative.)	
ADP Point for CAO (*Applicable to Air Force only*)	1
(When an AFPRO is specified as the administerin activity in Block 10, or HQ AFCMD is cited as Paymen Office in Block 12, send *one* copy to HQ AFCMD immed ately upon signature. If submission of delivery data is bein made by mechanical means, distribution of this hard cop need not be made to HQ AFCMD.)	

* Attach as follows:

Type of Shipment	Location
Carload or truckload	Affix to the shipment where will be readily visible an available upon receipt.
Less-than-carload or truckload.	Affix to container numbe one, or container bearin lowest number.
Mail, including parcel post	Attach to outside or include in the package. Include a copy in each addition package of multipackag shipments.
Pipeline or tank car: Railroad cars for coal movements.	Forward with consigne copies.

** Payment by DCASRs will be based on the sourc acceptance copies of DD Forms 250 forwarded to th Contract Administration Office except in those rare instance where distribution will be made to DCASR Payment Office in accordance with the above distribution schedule.

TABLE 2—SPECIAL DISTRIBUTION

As required	Address	Number of copies
Each: Navy Status Control Activity, Army, Air Force, DSA Inventory Control Manager.	Address specified in the contract.	1
Quality Assurance Representative.	Address specified by the assigned Quality Assurance Representative.	1

TABLE 2—SPECIAL DISTRIBUTION—Continued

As required	Address	Number of copies
Transportation Office issuing GBL (attach to GBL memorandum copy).	CAO address unless otherwise specified in the contract.	1
Purchasing Office other than office issuing contract.	Address specified in the contract.	1
Foreign Military Sales Representative.	Address specified in the contract.	8
Military Assistance Advisory Group (Grant Aid Shipments).	U.S. Military Advisory Group, Military Attache, Mission, or other designated agency address as specified in the contract.	1
Army:		
Foreign Military Sales/Military Assistance Program (Grant Aid)	Commander U.S. Army Security Affairs Cmd, ATTN: *(See Below), 3rd Street and "M" Avenue, Bldg 54-1, New Cumberland Army Depot, New Cumberland, PA 17070-5096.	1
*Director, AMSAC-OE for these country codes.	AG, AU, A2, AID, BC, BE, BY, CD, CI, CM, CN, CV, CK, DA, DE, DJ, EG, EI, FI, FR, GA, GB, GH, GR, GV, GY, IS, IT IV, KE, LI, LX, MI, MO, MR, NE, NI, NK, NO, NATO, PT, PU, RM, RW, SK, SL, SO, SP, SU, SW, SZ, SECPO, TK, TO, TU, UG, UK, UV.	
*Director, AMSAC-OX for these country codes.	AC, AR, AT, AL, BA, BB, BD, BF, BG, GH, BL, BM, BR, BX, CB, CE, CH, CO, CS, DO, DR, EC, ES, FJ, GJ, GT, GU, HA, HO, ID, IN, IR, JA, JM, JO, KS, KU, LE, MF, MU, MK, NP, NU, NS, NZ, PA, PE, PI, PK, PN, PP, QA, SC, SI, SN, SR, ST, TC, TD, TH, TW, UY, VC, VE, YE.	
Air Force:		
On shipments of new production of aircraft and missiles, class 1410 missiles, 1510 aircraft (fixed wing, all types), 1520 aircraft (rotary wing), 1540 gliders, 1550 target drones.	Air Force Logistics Command, Aerospace Vehicle Distribution Office (MCNAPV), Wright-Patterson AFB, Ohio 45433.	1
When above items are delivered to aircraft modification centers.	A.F. Plant, Representative Office.	1
Foreign Military Sales/Military Assistance Program (Grant Aid) shipments to Canada.	National Defence Headquarters, Ottawa, Ontario, Canada K1A OK4, Attn: DPSUPS3.	1
Other Than Canada.	Address specified in the contract.	1
When consignee is an Air National Guard Activity.	Consignee address (Block 13), ATTN: Property Officer.	3
Navy:		
Navy Foreign Military Sales/Military Assistance Program (Grant Aid)	US Navy International Logistics, Control Office (NAVILCO) 700 Robins Avenue, Philadelphia, PA 19111.	2
When typed code (TC) 2T or 7T is shown in Block 16	Aviation Supply Office (ASO) 700 Robins Avenue, Philadelphia, PA 19111 (Code MFA) for aviation-type material.	2
or When shipment is consigned to another contractor's plant for a Government representative	and	
or When Block 16 indicates the shipment includes GFP.	Ships Parts Control Center (SPCC) (Code 7231) for all other material, Mechanicsburg, PA 17055.	2
Marine Corps:		
All shipments consigned to a Marine Corps Activity (excluding aeronautical spares).	Commandant of the Marine Corps Headquarters, USMC Washington, DC 20380.	1
	Commanding General, Marine Corps Logistics Base Albany, GA 31704.	3
Bulk Petroleum Shipments.	Cognizant Defense Fuel Region (see Table 4).	1

[1] Each addressee.

Part 5—Preparation of the DD Form 250-1 (Loading Report)

I-501 Instructions.

The DD Form 250-1 shall be prepared in accordance with the following instructions when applied to a tanker or barge cargo lifting. Abbreviations may be used where space is limited. The block numbers correspond to those on the form.

Block 1—TANKER/BARGE. Line out "TANKER" or "BARGE" as appropriate and place "X" to indicate loading report.

Block 2—INSPECTION OFFICE. Enter the name and location of the Government office conducting inspection.

Block 3—REPORT NO. Number each form consecutively, starting with number 1, to correspond to the number of shipments made against the contract. In case shipment is made from more than one location against the same contract, follow this numbering system at each location.

Block 4—AGENCY PLACING ORDER ON SHIPPER, CITY, STATE, AND/OR LOCAL ADDRESS (loading). Indicate the applicable Government activity.

Block 5—DEPARTMENT. Indicate Military Department owning product being shipped.

Block 6—PRIME CONTRACT OR P.O. NO. Enter the contract or purchase order number.

Block 7—NAME OF PRIME CONTRACTOR, CITY, STATE AND/OR LOCAL ADDRESS (Loading). Enter the name and address of the contractor as shown in the contract.

Block 8—STORAGE CONTRACT. Enter storage contract number if applicable.

Block 9—TERMINAL OR REFINERY SHIPPED FROM, CITY, STATE AND/OR LOCAL ADDRESS. Enter the name and location of the contractor facility from which shipment is made. Also indicate delivery point in this space as either "FOB Origin" of "FOB Destination."

Block 10—ORDER NO. ON SUPPLIER. Enter number of the delivery order, purchase order, subcontract or suborder placed on the supplier.

Block 11—SHIPPED TO: (Receiving Activity, City, State and/or Local Address). Enter the name and geographical address of the consignee as shown on the shipping order.

Block 12—B/L NUMBER. Where applicable, enter the initials and number of the bill of lading. If commercial bill of lading later to be converted to a Government bill of lading is authorized, show "Com. B/L to GB/L.

Block 13—REQN. OR REQUEST NO. Enter number and date if cited in the shipping instructions.

Block 14—CARGO NO. Enter the cargo number furnished by the ordering office.

Block 15—VESSEL. Enter the name of tanker or barge.

Block 16—DRAFT ARRIVAL. Enter the vessel's draft on arrival.

Block 17—DRAFT SAILING. Enter the vessel's draft on completion of loading.

Block 18—PREVIOUS TWO CARGOES. Enter the type of product constituting previous two cargoes.

Block 19—PRIOR INSPECTION. Leave blank.

Block 20—CONDITION OF SHOR PIPELINE. Indicate condition of line (fu or empty) before and after loading.

Block 21—APPROPRIATION (Loading Indicated the appropriation number show on the contract, purchase order or distrib tion plan. If the shipment is made from de partmentally owned stock, show "Army Navy or Air Force (as appropriate) owne Stock."

Block 22—CONTRACT ITEM NO. Ente the contract item number applicable to th shipment.

Block 23—PRODUCT. Enter the produc nomenclature and grade as shown in th contract or specification, the stock or cla number, and the NATO symbol.

Block 24—SPECIFICATIONS. Enter th specification and amendment numbe shown in the contract.

Block 25—STATEMENT OF QUANTITY Enter in the "LOADED" column, the ne barrels, net gallons and long tons for th cargo loaded. NOTE: If more than ½ of 1 difference exists between the ship and shor quantity figures an investigation shall b made immediately to determine the cause o such difference. If necessary, corrected doc uments shall be prepared; otherwise statement shall be palced in Block 28 as t the probable or actual cause of the diffe ence.

Block 26—STATEMENT OF QUALITY.

(a) Under the heading "TESTS" list all in spection acceptance tests of the specific tion and any other quality requirements o the contract.

(b) Under the heading "SPECIFICATIO LIMITS" list the limits or requirements a stated in the specification or contract d rectly opposite each entry in the "TESTS column. Applicable waivers to technical re quirements shall be listed.

(c) Under the heading "TEST RESULTS list the test results applicable to the storag tank or tanks from which the cargo wa lifted. If more than one storage tank is in volved, list the tests applicable to each tan in separate columns headed by the tan number, the date the product in the tan was approved, and the quantity loaded fro the tank. Each column shall also list suc product characteristics as amount the typ of corrosion inhibitor, etc.

Block 27—TIME STATEMENT. Line ou "DISCHARGE" and "DISCHARGING Complete all applicable entries of the tim statement using local time. These dates an times shall be taken from either the vesse or shore facility log. The Government rep resentative shall assure that the logs are i agreement on those entries used. If th vessel and shore facility logs are not i agreement, the Government representativ will explain the reasons in Block 28—RE MARKS. Date and time vessel left berth shall not be entered on documents placed aboard the vessel but shall appear on all other copies. All dates shall be expressed in sequence of day, month, and year with the month spelled out or abbreviated (*e.g.*, 10 Sept. 67). The term FINISHED BALLAST DISCHARGE is meant to include all times needed to complete deballasting and mopping/drying of ship's tanks. The inspection of ship's tanks for loading is normally performed immediately upon completion of drying tanks.

Block 28—REMARKS. Use this space for reporting:

(a) All delays, their case and responsible party (vessel, shore facility, Government representative, or other).

(b) Details of loading abnormalities such as product losses due to overflow leaks, delivery of product from low level in shore tanks, etc.

(c) In the case of multiple consignees, enter each consignee, the amount consigned to each, and if applicable, the storage contract numbers appearing on the delivery order.

(d) When product title is vested in the U.S. Government, insert in capital letters "U.S. GOVERNMENT OWNED CARGO." If title to the product remains with the contractor and inspection is preformed at source with acceptance at destination, insert in capital letters "CONTRACTOR OWNED CARGO."

(e) If the form covers shipments for Military Assistance Program support, enter in this space "FY-(the year)—MAP" in half-inch letters. Also indicate the MAP reference number—*i.e.* program directive number or MAP cause number if known.

(f) Seal number and location of seals. If space is not adequate, place this information on the ullage report or an attached supplemental sheet.

Block 29—COMPANY OR RECEIVING TERMINAL. Line out "OR RECEIVING TERMINAL" and secure the signature of the supplier's representative. The signature shall be applied to the master ditto or all copies of the form.

Block 30—CERTIFICATION BY GOVERNMENT REPRESENTATIVE. Line out "DISCHARGED." The Government representative shall date and sign the completed master ditto or all copies of the form to certify inspection and acceptance, as applicable, by the Government. The name of the individual signing this certification, as well as the names applied in Blocks 29 and 31 shall be typed or hand lettered on the master or all copies of the document. The signature in Block 30 must agree with the typed or lettered named to be acceptable to the paying office.

Block 31—CERTIFICATION BY MASTER OR AGENT. Obtain the signature of the master of the vessel or its agent. The signature shall be applied to the master ditto or all copies of the form.

Part 6—Preparation of the DD Form 250—1 (DISCHARGED REPORT)

I—601 Instructions.

The DD Form 250—1 shall be prepared in accordance with the following instructions when applied to tanker or barge discharge. Abbreviations may be used where space is limited. The block numbers correspond to those on the form.

Block 1—TANKER/BARGE. Line out "TANKER" or "BARGE" as applicable and place "X" to indicate discharge report.

Block 2—INSPECTION OFFICE. Indicate Government activity performing inspection on the cargo received.

Block 3—REPORT NO. Leave blank.

Block 4—AGENCY PLACING ORDER ON SHIPPER, CITY, STATE AND/OR LOCAL ADDRESS (loading). Indicate Government agency shown on loading report.

Block 5—DEPARTMENT. Indicate Department owning product being received.

Block 6—PRIME CONTRACT OR P.O. NO. Indicate the contract or purchase order number shown on the loading report.

Block 7—NAME OF PRIME CONTRACTOR, CITY, STATE AND/OR LOCAL ADDRESS (Loading). Indicate name and location of contractor who loaded the cargo.

Block 8—STORAGE CONTRACT. Enter the number of the contract under which material is placed in commercial storage where applicable.

Block 9—TERMINAL OR REFINERY SHIPPED FROM, CITY, STATE AND/OR LOCAL ADDRESS. Indicate source of cargo.

Block 10—ORDER NO. ON SUPPLIER. Make sure entry appearing on loading report.

Block 11—SHIPPED TO: (Receiving Activity, City, State and/or Local Address). Enter receiving activity's name and location.

Block 12—B/L NUMBER. Enter as appears on loading report.

Block 13—REQN. OR REQUEST NO. Leave blank.

Block 14—CARGO NO. Enter cargo number shown on loading report.

Block 15—VESSEL. Enter name of tanker or barge discharging cargo.

Block 16—DRAFT ARRIVAL. Enter draft of vessel upon arrival at dock.

Block 17—DRAFT SAILING. Enter draft of vessel after discharging.

Block 18—PREVIOUS TWO CARGOES. Leave blank.

Block 19—PRIOR INSPECTION. Enter the name and location of the Government office which inspected the cargo loading.

Block 20—CONDITION OF SHORE PIPELINE. Indicate condition of line (full or empty) before and after discharging.

Block 21—APPROPRIATION (Loading). Leave blank.

Block 22—CONTRACT ITEM NO. Enter the item number shown on the loading report.

Block 23—PRODUCT. Enter information appearing in Block 23 of the loading report.

Block 24—SPECIFICATIONS. Enter information appearing in Block 24 of the loading report.

Block 25—STATEMENT OF QUANTITY. Enter applicable data in proper columns.

(a) "LOADED" figures shall be taken from the loading report.

(b) Quantities discharged shall be determined from shore tank gauges at destination.

(c) If a grade of product is discharged at more than one point, the loss or gain for that product shall be calculated by the final discharge point. Amounts previously discharged shall be as reported on discharge reports prepared by the previous discharge points. Volume figures shall be transmitted by routine message to the final discharge point in advance of mailed documents to expedite the loss or gain calculation and provide proration data when more than one department is involved.

(d) The loss of gain percentage shall be entered in the "PERCENT" column followed by "LOSS" or "GAIN" as applicable.

(e) On destination acceptance shipments, accomplish the "DISCHARGED" column only, unless instructed to the contrary.

Block 26—STATEMENT OF QUALITY.

(a) Under the heading "TESTS" enter the verification tests performed on the cargo preparatory to discharge.

(b) Under "SPECIFICATION LIMITS" enter the limits, including authorized departures (if any) appearing on the loading report, for the tests performed.

(c) Enter the results of tests performed under the heading "TEST RESULTS."

Block 27—TIME STATEMENT. Line out "LOAD" and "LOADING." Complete all applicable entries of the time statement using local time. The dates and times shall be taken from either the vessel or shore facility log. The Government representative shall assure that these logs are in agreement with entries used. If the vessel and shore facility logs are not in agreement, the Government representative will explain the reason(s) in Block 28—REMARKS. Date and time vessel left berth shall not be entered on documents placed aboard the vessel but shall appear on all other copies. All dates shall be expressed in the sequence of day, month and year with the month spelled out or abbreviated (e.g., Sept. 10, 1967).

Block 28—REMARKS. Use this space for reporting important facts such as:

(a) Delays, their cause and respo
party (vessel, shore facility, Gover
representative, or other).

(b) Abnormal individual losses cont
ing to the total loss. The cause of
losses shall be indicated as well as act
estimated volumes involved. Such
shall include, but not be restricted to,
uct remaining aboard (indicate tan
which contained), spillages, line break
Where gravity group change of rec
tank contents results in a fictitious l
gain, such fact shall be noted. Irregul
oberved on comparing vessel ullage
tained at loading point with those
discharge point shall be noted if indi
of an abnormal transportation loss o
tamination.

Block 29—COMPANY OR RECEI
TERMINAL. Line out "COMPANY
Secure the signature of a representat
the receiving terminal. The signature
be applied to the master ditto or all
of the form.

Block 30—Certification by Gover
Representative. Line out "LOADED.
Government representative shall dat
sign the completed master ditto or all
of the form to certify inspection and a
ance, as applicable, by the Governmen
name of the individual signing the cer
tion as well as the names applied in
29 and 31 shall be typed or hand letter
the master or all copies of the form
signature in Block 30 must agree wit
typed or lettered name to be acceptal
the paying office.

Block 31—Certification by Mast
Agent. Obtain the signature of the m
of the vessel or the vessel's agent. Th
nature shall be applied to the master
or all copies of the form.

Part 7—Distribution of the DD Form

I-70 Distribution.

(a) The completed DD Form 250-1
be distributed by the Government
sentative in accordance with Table 3 o
Appendic as may be amended by the
sions of the contract or shipping order.

(b) The contractor shall furnish the
ernment representative sufficient cop
the completed form to permit the req
distribution.

(c) Distribution of the form shall be
as soon as possible but not later th
hours following completion of the form

[See Table 3 on following pages]

I-702 Corrected DD Form 250-1.

When errors are made in entries o
form which would affect payment
countability, corrected copies shall be
Entries corrected shall be encircled
copies and the form plainly identified

"CORRECTED COPY." The statement "Corrections Have Been Verified" shall be entered in Block 26 with the authorized Government representative's dated signature directly below. Distribution of the certified corrected copy shall be made to all recipients of the original distribution.

TABLE 3—DD FORM 250-1 DISTRIBUTION

Type of shipment	Recipient of DD Form 250-1	Number of Copies			
		Loading		Discharge	
		Tanker	Barge	Tanker	Barge
			Prepared by Shipper/Govt Representative		Prepared by Receiving Activity
On all overseas shipments provide for a minimum of 4 consignees. Place 1 copy (attached to ullage report) in each of 4 envelopes and mark envelopes "Consignee-First Destination," "Consignee-Second Destination," etc., for delivery via the tanker.	Each Consignee. By mail (CONUS shipments only). With Shipment	2, 1	1, 1	(1)	(1)
	Master of Vessel	1	1	1	1
	Tanker or Barge Agent	2	2	2	2
	Contractor	(1)	(1)	(1)	(1)
	Cognizant Inspection Office	1	1	1	1
	Government Representative at each Destination Responsible for Quality	1	1	1	1
	Government Representative at Cargo Loading Point	1	1	*1	*1
On all USNS tankers and all MSC chartered tankers and MSC chartered barges.	Military Sealift Command, Code 331, Washington, DC 20390	2	2	2	2
See contract or shipping order for finance documentation and any supplemental requirements for Government-owned product shipments and receipts.	Payment Office. If this is DASC-F, send copies to Defense Fuel Supply Center, ATTN DFSC-CDX, Cameron Station Bldg. 5, Alexandria, VA 22314 (Do not send copies to DASC-F)	2	2	2	2
For shipments and receipts of DFSC financed cargos for which DFSC-F is not the Paying Office.	Accounting Office, DFSC, ATTN DFSC-CD, Cameron Station, Alexandria, VA 22314	1	1	1	1
For shipments on all USNS tankers, MSC chartered tankers and barges, and FOB destination tankers with copy of ullage report.	DFSC-OC, Cameron Station Alexandria, VA 22314	1	1	**1	1
On Army ILP shipments	US Army International Logistics Center, New Cumberland Army Depot, New Cumberland, PA 17070	2	2	2	2
Navy:					
On all shipments to Navy-Operated Terminals.	Navy Fuel Petroleum Office, Cameron Station, Alexandria, VA 22314	2	1	2	1
On all shipments to AF bases	Directorate of Energy Mgmt, SA ALC (SFQ), Kelly AFB, TX	1	1	1	1
On all CONUS loadings	DFSC Fuel Region(s) cognizant of Shipping.	1	1	1	1
On all shipments to CONUS Destinations.	DFSC Fuel Region(s) cognizant of Shipping and Receiving Point***	1	1	0	0
For all discharges of cargoes originating at DFSPs and discharging at activities not a Defense Fuel Support Point.	Accounting Office, DFSC, ATTN DFSC-CD, Cameron Station Alexandria, VA 22314			****1	****1

[1] As required.

* With copy of ullage report.

** Dry tank certificate to accompany DD Form 250-1 and ullage report.

*** The copies of DD Form 250-1, forwarded by bases, will include the following in Block 11: Shipped to: Supplementary Address, if applicable; Signal Code; and Fund Code.

**** See Table 4.

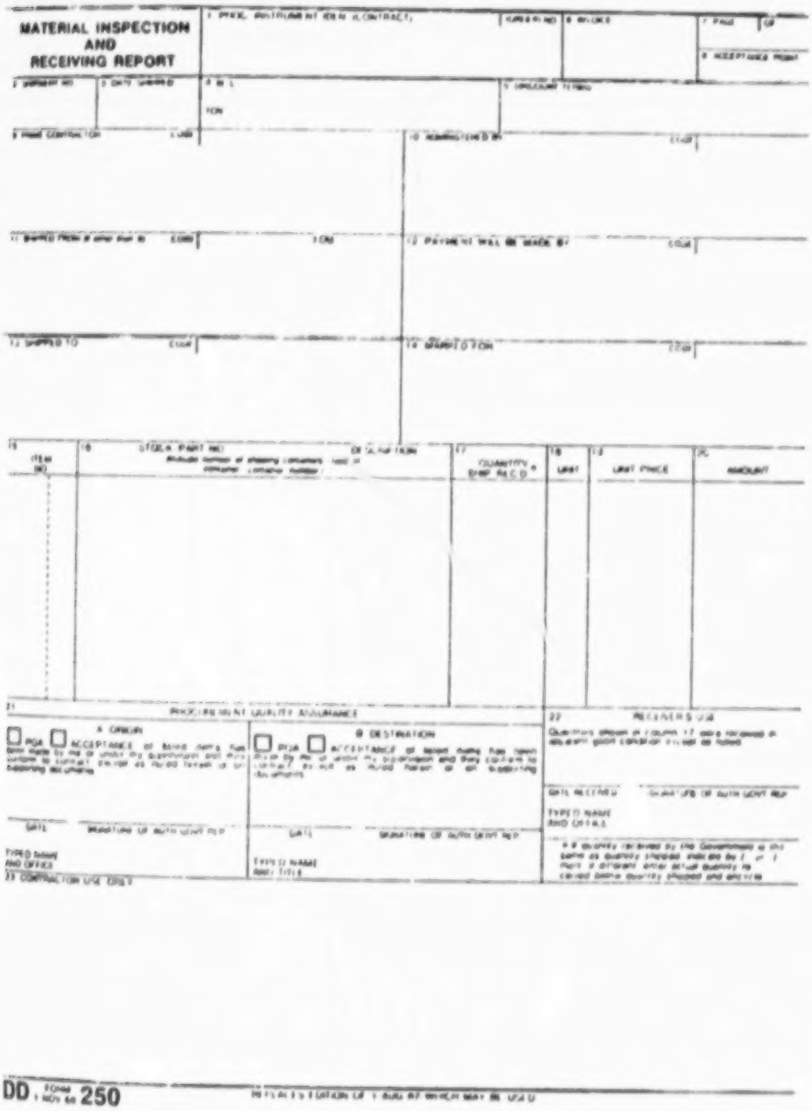
TABLE 4—FUEL REGION LOCATIONS AND AREAS OF RESPONSIBILITY

a. DFR Northeast	Defense Fuel Region Northeast, McGuire AFB, Bldg. 19-01, NJ 08641.
Area of Responsibility: (Region 1).	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.
b. DFR Southeast	Defense Fuel Region Southeast, P.O. Box TT, Tyndall AFB, FL 32403.
Area of Responsibility: (Region 2).	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Kentucky.
c. DFR Central	Defense Fuel Region Central, 8900 S. Broadway, Bldg. 2, St. Louis, MO 63125.
Area of Responsibility: (Region 3).	Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Utah, Wisconsin, and Wyoming.
d. DFR Southwest	Defense Fuel Region Southwest, Room 7017, 515 Rusk Avenue, Houston, TX 77002.
Area of Responsibility: (Region 4).	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
e. DFR West	Defense Fuel Region West, 317 N. Gaffney Street, San Pe CA 90731.
Area of Responsibility (Region 5).	Arizona, California, Ida Nevada, Oregon, and Washing ton.
f. DFR Alaska	Defense Fuel Region Alaska, E mendorf AFB, Alaska 99506.
Area of Responsibility	Alaska and Aleutians.
g. DFR Europe	Defense Fuel Region Europe, H USEUCOM (J4), APO Ne York 09128.
Area of Responsibility	Central Europe, British Isles an Scandinavia, Mediterrane Region plus Jordan and Ira Africa, to include the Cana Islands and Seychelles Island and the Azores.
h. DFR Pacific	Defense Fuel Region, Pacif Camp H. M. Smith, Honolu HI 96861.
Area of Responsibility	PACOM.
i. DFR Caribbean	Defense Fuel Region, Caribbe Naval Station, Box 3399, FP Miami, FL 34051.
Area of Responsibility	Caribbean Area (includes Puer Rico, West Indies, and Mexi but excludes Panama and th Bahamas).

MATERIAL INSPECTION AND RECEIVING REPORT

Part 8—Form Examples

I-801 DD Form 250: Material Inspection and Receiving Report



MATERIAL INSPECTION AND RECEIVING REPORT

ITEM NO.	STOCK/PART NO. DESCRIPTION	QUANTITY SHIP/REC'D *	UNIT	UNIT PRICE	AMOUNT

PROCUREMENT QUALITY ASSURANCE

A. ORIGIN

☐ PQA ☐ ACCEPTANCE

DATE

TYPED NAME AND OFFICE

B. DESTINATION

☐ PQA ☐ ACCEPTANCE

DATE

TYPED NAME AND TITLE

RECEIVER'S USE

TYPED NAME AND OFFICE

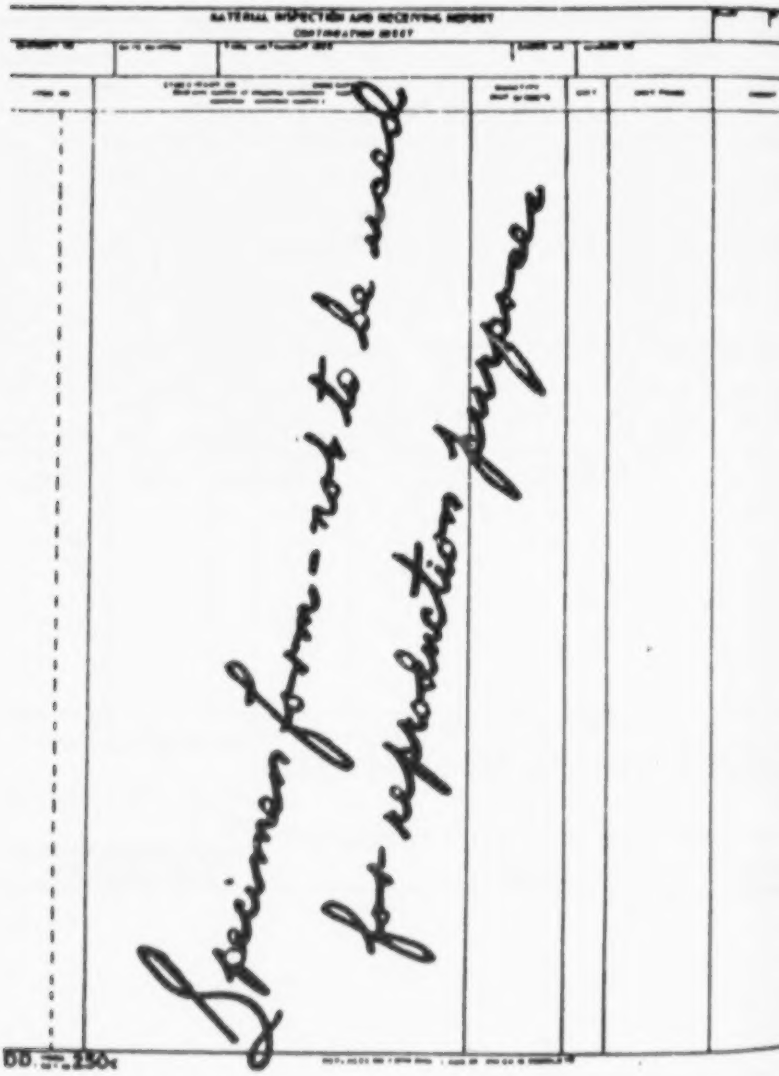
CONTRACTOR USE ONLY

DD FORM 250

MATERIAL INSPECTION AND RECEIVING REPORT

I 802 DD Form 250c: Material Inspection and Receiving Report

Continuation Sheet



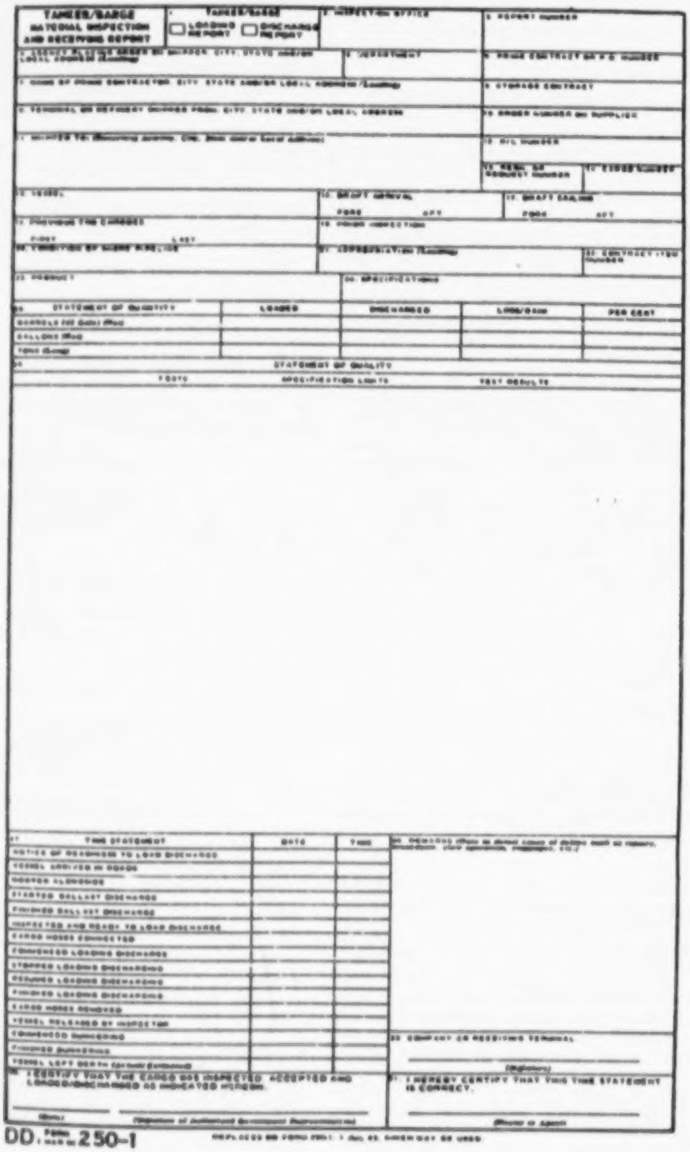
MATERIAL INSPECTION AND RECEIVING REPORT
CONTINUATION SHEET

Specimen form - not to be used for reproduction purposes

DD 250c

MATERIAL INSPECTION AND RECEIVING REPORT

I 803 DD Form 250 -1: Tanker/Barge Material Inspection and Receiving Report



TANKER/BARGE

I HEREBY CERTIFY THAT THIS TIME STATEMENT IS CORRECT.

DD Form 250-1

[51 FR 46472, Dec. 23, 1986, as amended at 53 FR 38176, 38249, Sept. 29, 1988; 54 FR 11729, Mar. 22, 1989, 54 FR 36773, Sept. 5, 1989; 54 FR 46902, Nov. 8, 1989; 55 FR 19082, May 8, 1990]

Appendices J—M [Reserved]

Appendix N—Activity Address Numbers

Activity Address Numbers are for use in conjunction with the Uniform Procurement Instrument Identification Numbering System as prescribed in subpart 204.70 of the DoD FAR Supplement. The six-character code is used in the first six positions of the Procurement Instrument Identification Number (PIIN). The two-character code is used in the first two positions of the Call/Order Serial Number.

For further information, see subpart 204.70 of the DoD FAR Supplement.

Activities coding procurement instruments shall used only those unique and significant codes assigned by their respective Department/Agency Activity Address Monitor(s). When required, activities shall also be assigned a two-position code. (Newly assigned numbers will be listed in future revisions to Appendix N.)

Army

Chief, Contract Supply Office, SFRD-KS, Rm 1C642, The Pentagon, Washington, DC 20310-0103

Navy

Navy Accounting and Finance Center, (NAFC-624), Washington, DC 20390

(Six-Character Unit Identification Number only) [1]

Air Force

SAF/AQCX, Directorate, Contracting and Manufacturing Policy, Washington, DC 20330-5040

Defense Logistics Agency

Chief, Systems Branch (DLA-PPS), Procurement Division, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100

Marine Corps

Headquarters, U.S. Marine Corps, (Code LBO), Washington, DC 20380-0001

(Six-Character Unit Identification Number only) [1]

Other Defense Agencies

The following agencies will forward requests for Appendix N maintenance to HQDA(JDHQ-SV-W-P), Washington, DC 20310-0600.

Defense Mapping Agency

Director of Acquisition, Defense Mapping Agency, Washington, DC 20305-3000.

Defense Nuclear Agency

Chief, Contract Division, Defense Nuclear Agency, Washington, DC 20305-1000

Defense Communications Agency

Chief, Logistics Management Office, Code 202, Defense Communications Agency, Washington, DC 20305-2000

Department of the Army

DAAA03, P1—Pine Bluff Arsenal, Attn: SMCRM-PO, Pine Bluff, AR 71602-9500

DAAA05, B2—Rocky Mountain Arsenal, Attn: SMCR-IS, Commerce City, CO 80022-2180

DAAA08, B7—Rock Island Arsenal, Attn: SCMRI-CT, Rock Island, IL 61299-5000

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[1] The Navy and Marine Corps Activity Address Monitor for assignment of two-character call/serial numbers is: Office of the Assistant Secretary of the Navy (S&L), Room 536, Crystal Plaza 5, Washington, DC 20360-5000. Requests for changes in either the six-character or the two-character codes will be submitted to the appropriate Activity Address Monitor in accordance with internal procedures. Activity Address Monitors shall refer requests for additions, deletions, or changes to their respective DAR Council Policy Member with a copy of Executive Agent, Defense Logistics Agency, DLA-PPS, Cameron Station, Alexandria, VA 22304-6100. The Executive Agent is responsible for maintaining the data base of six- and two-character code assignments and distributing the blocks of two-character codes to the Monitors for further assignment.

DAAA09, BA—HQ, AMCCOM, Attn: AMSMC-PC(R), Rock Island, IL 61299-6000

DAAA15, ZU—Chemical Research & Development Cmd., Attn: AMSMC-PR(A), Aberdeen Proving Ground, MD 21010-5423

DAAA21, 2T—Armament Research & Development Cmd., Attn: AMSMC-PC(D), Picatinny Arsenal, NJ 07806-5000

DAAA22, BV—Watervliet Arsenal, Attn: SMCWV-PP, Watervliet, NY 12189-4050

DAAA27, 00—Radford Army Ammunition Plant, Attn: SMCRA-CA, Radford, VA 24141-0298

DAAA31, GJ—McAlester Ammunition Plant, Attn: SMCMC-PC, McAlester, OK 74501-5000

DAAB07, BG—USA Communications and Electronics Command, Attn: AMSEL-PC, Ft Monmouth, NJ 07703-5000

DAAB08, 2V—USA Communications and Electronics Command, Attn: Procurement Directorate, Base Ops, Ft Monmount, NJ 07703-5008

DAAB10, ZP—USA Communications & Electronics Activity, Attn: SELCE-PC-OP, Vint Hill Farms Station, Warrenton, VA 22186-5172

DAAC01, BH—Anniston Army Depot, Attn: SDSAN-DOC, Anniston, AL 36201-5003

DAAC09, ZR—Sacramento Army Depot, Attn: SDSSA-K, Sacramento, CA 95813-5021

DAAC21, ZM—Sharpe Army Depot, Attn: SDSSH-DC, Lathrop, CA 95331-5000

DAAC67, ZN—Letterkenny Army Depot, Attn: SDSLE-P, Chambersburg, PA 17201-4150

DAAC69, D2—New Cumberland Army Depot, Attn: SDSNC-P, New Cumberland, PA 17070-5001

DDAC71, ZS—Tobyhanna Army Depot, Attn: SDSTO-K, Tobyhanna, PA 18466-5100

DAAC79, D7—Red River Army Depot, Attn: SDSSR-PC, Texarkana, TX 75507-5000

DAAC83, BJ—Corpus Christi Army Depot, Attn: SDSCC-C, Corpus Christi, TX 78419-6000

DAAC89, BK—Tooele Army Depot, Attn: SDSTE-CD, Tooele, UT 84074-5000

DAAD01, B5—Yuma Proving Ground, Attn: STEYP-CR, Yuma, AZ 85365-9103

DAAD03, B6—Jefferson Proving Ground, Attn: STEP-LG-C, Madison, IN 47250-5100

DAAD05, BM—Aberdeen Proving Ground Activity, Attn: STEAP-PR, Aberdeen Proving Ground, MD 21005-5001

DAAD07, BN—White Sands Missile Range, Attn: STEWS-PR, White Sands, NM 88002-5031

DAAD09, BP—Dugway Proving Ground, Attn: STEDP-DOC, Dugway, UT 84002-5031

DAAD10, ZX—USA Test and Evaluation Command, Attn: AMSTE-PR, Aberdeen Proving Ground, MD 21005-5055

DAAE07, BR—USA Tank Automotive Command, Attn: AMSTA-I, Warren, MI 48090-5000

DAAG60, G8—USA Military Academy, Attn: Purchase & Contracting Division MAPC, West Point, NY 10996-1594

DAAG99, ZY—USA Program Manager-SANG, Attn: AMCPM-NGA-A, APO New York 09038

DAAH01, CC—USA Missile Command, Attn: AMSMI-PC, Redstone Arsenal, AL 35898-5280

DAAH03, D8—USA Missile Command, Attn: AMSMI-PC-FC (Lab/Base Ops), Redstone, Arsenal, Al 35898-5280

DAAJ02, D9—Aviation Research & Technology Activity, Attn: SAVRT-TY-CD, Ft Eustis, VA 23604-5577

DAAJ04, C6—USA St. Louis Support Center, Attn: AMSAV-PDS-2, Granite City, IL 62040-1801

DAAJ05, ZF—USA Aviation Systems Command, Attn: IAS 21-Wrking Group, Ft. Eustis, VA 23604-5577

DAAJ09, BS—USA Aviation Systems Command, Attn: AMSAV-PRR, 4300 Goodfellow Blvd., St. Louis, MO 63120-1798

DAAJ11—USA Plant Representative Office, McDonnall Douglas Helicopter Company, 5000 East McDowell Road, Mesa, AZ 85025-9797

DAAJ12—USA Plant Representative Office, Boeing Helicopter Company, PO Box 16859, Philadelphia, PA 19142-0859

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DAAJ13—USA Plant Representative Office, Bell Helicopter Textron, Inc., PO Box 1605, Ft. Worth, TX 76101-1605

DAAK01 BB—USA Troop Support Command, Attn: AMSTR-PY, 4300 Goodfellow Blvd., St. Louis, MO 63120-1798

DAAK60 C5—USA Natick Research & Development Center, Attn: AMSTR-PW, Natick, MA 01760-5011

DAAK70 EI—USA Belvoir Research & Development Center, Attn: AMSTR-PV, Ft. Belvoir, VA 22060-5606

DAAL01 1Y—Electronics Technology & Devices Command, Attn: SLECT-DP, Ft. Monmouth, NJ 07703-5000

DAAL02 D3—USA LABCOM Procurement Office, Attn: SLCIS-PR-PO, 2800 Powder Mill Road, Adelphi, MD 20783-1197

DAAL03, G2—USA Research Office, Attn: SLCRO-PR, Box 12211, Research Triangle Park, NC 27709-2211

DAAL04, D6—USA Materials and Mechanics Research Center, Arsenal Street, Watertown, MA 02172-2719

DABT01, F6—USA Aviation Center Contracting Office, Attn: ATZQ-DI-PC, Bldg 116, Ft. Rucker, AL 36362-5000

DABT02, 2A—USA Military Police & Chemical Schools, Attn: ATZN-DOC. Ft. McClellan, AL 36205-5000

DABT10, 2B—USA Infantry Center Contracting Office, Attn: ATZB-DC Ft Benning, GA 31905-5179

DABT11, 2C—USA Signal Center Contracting Office, Attn: ATZH-DIP, Bldg 2050, Ft Gordon, GA 30905-5041

DABT15, F9—USA Soldier Support Center Contracting Office, Attn: ATZI-DIP, Bldg 600, Room 209 Ft Benjamin Harrison, IN 46216-5230

DABT19, 2D—USA Combined Arms Directorate of Contracting, Attn: ATZL-GDC, Bldg 198, Ft Leavenworth, KS 66027-5031

DABT23, 2E—USA Armor Center Contracting Office, Attn: ATZJ-DIP, Bldg 4022 Ft Knox, KY 40121-5000

DABT31, 2F—USA Engineer Training Center Contracting Office, Attn: ATZI-SI-PC, Box 140, Ft Leonard Wood, MO 65473-0140

DABT35, 2G—USA Training Center, Attn: ATZDGD-G, Ft Dix, NJ 08640-5405

DABT39, 2H—USA Army Field Artillery Center Directorate of Contracting, Attn: ATZR-Q, PO Box 3501, Ft Sill, OK 73503-0501

DABT43, 2J—Carlisle Barracks Contracting Office, Attn: ATZE-DIP, Bldg 46, Carlisle Barracks, PA 17013-5002

DABT47, 2K—USA Training Center Contracting Division, Attn: ATZJ-DIP, Bldg 4350, Ft Jackson, SC 29207-5402

DABT51, 2L—USA Training Center Contracting Office, Attn: ATZC-DIP Ft Bliss, TX 79916-0078

DABT57, 2N—USA Transportation Center Contracting Office, Attn: ATZF-DIO-CD, Bldg 2745, Ft. Eustis, VA 23604-5293

DABT58, 2P—Headquarters Contracting Office, Attn: ATZG-C, #62 Bldg 195, Ft. Monroe, VA 23651-6070

DABT59, 2Q—USA Quartermaster Center Contracting Division, Attn: ATZM-DIP, Bldg T-7124, Ft. Lee, VA 23081

DABT60, 1L—USA TRADOC Contracting Activity—East, Attn: ATCAE-E, Bldg 1748, Ft. Eustis, VA 23604-5538

DABT61, BF—USA JAG School Contracting Office, Attn: Budget Branch, Charlottesville, VA 22904-1781

DABT62, 2P—USA TRADOC Contracting Activity—West, Attn: PO Box Y, Ft. Hood, TX 76544-5065

DACA01, DACW01, CK—USA Engineer District, Mobile, PO Box 2288, Mobile, AL 36628-0001

DACA03, DACW03, CL—USA Engineer District, Little Rock, PO Box 867, Little Rock, AR 72203-0867

DACA05, DACW05, CM—USA Engineer District, Sacramento, 650 Capitol Mall, Sacramento, CA 95814-4794

DACA06, DACW06, CN—USA Engineer District, South Pacific, 630 Sansome Street, Room 1216, San Francisco, CA 94111-2206

DACA07, DACW07, CP—USA Engineer District, San Francisco, 211 Main Street, San Francisco, CA 94105-1905

DACA09,DACW09,CQ—USA Engineer District, Los Angeles, PO Box 2711, Los Angeles, CA 90053-2325

DACA17, DACW17, CS—USA Engineer District, Jacksonville, PO Box 4970, Jacksonville, FL 32232-0019

DACA19, DACW19, CU—USA Engineer Division, South Atlantic, 30 Pryor Street, Rm 510 Title Bldg, Atlanta, GA 30335-6801

DACA21, DACW21, CV—USA Engineer District, Savannah, PO Box 889, Savannah, GA 31402-0889

DACA22, DACW22, CW—USA Engineer Division, North Central, 536 South Clark Street, Chicago, IL 60605-1592

DACA23, DACW23, CX—USA Engineer District, Chicago, 219 South Dearborn Street, Chicago, IL 60604-1797

DACA25, DACW25, CD—USA Engineer District, Rock Island, PO Box 2004, Clock Tower Building, Rock Island, IL 61202-2004

DACA27, DACW27, CY—USA Engineer District, Louisville, PO Box 59, Louisville, KY 40201-0059

DACA29, DACW29, CZ—USA Engineer District, New Orleans, PO Box 60267, New Orleans, LA 70160-0267

DACA31, DACW31, DA—USA Engineer District, Baltimore, PO Box 1715, Baltimore, MD 21203-1715

DACA33, DACW33, DB—USA Engineer District, New England, 424 Trapelo Road, Waltham, MA 02254-9149

DACA35, DACW35, DC—USA Engineer District, Detroit, 150 Michigan Avenue, PO Box 1027, Detroit, MI 48231-1027

DACA37, DACW37, DD—USA Engineer District, St. Paul, 1210 USPO & Custom House, St. Paul, MN 55101-1479

DACA38, DACW38, DE—USA Engineer District, Vicksburg, PO Box 60, Vicksburg, MS 39181-0060

DACA39, DACW39, DF—USA Engineer Water-Ways Experiment Station, PO Box 631, Vicksburg, MS 39180-0631

DACA40, DACW40, DG—USA Engineer Division, Lower Mississippi Valley, PO Box 80, Vicksburg, MS 39180-0080

DACA41, DACW41, DH—USA Engineer District, Kansas City, 700 Federal Bldg., 601 East 12th Street, Kansas City, MO 64106-2896

DACA43, DACW43, DJ—USA Engineer District, St. Louis, 210 North 12th Street, St. Louis, MO 63101-1986

DACA45, DACW45, DK—USA Engineer District, Omaha, Room 6012, US Post Office & Courthouse, Omaha, NE 68102-4910

DACA46, DACW46, DL—USA Engineer Division, Missouri River, PO Box 103, Downtown Station, Omaha, NE 68101-0103

DACA47, DACW47, DM—USA Engineer District, Albuquerque, PO Box 1580, Albuquerque, NM 87103-1583

DACA49, DACW49, DN—USA Engineer District, Buffalo, Foot Bridge Street, Buffalo, NY 14207-3199

DACA51, DACW51, CE—USA Engineer District, New York, 26 Federal Plaza, New York, NY 10278-0090

DACA52, DACW52, DP—USA Engineer Division, North Atlantic, 90 Church Street, New York, NY 10007-9998

DACA54, DACW54, DQ—USA Engineer District, Wilmington, 308 Custom House, Wilmington, NC 28402-1890

DACA55, DACW55, DR—USA Engineer Division, Ohio River, PO Box 1159, Cincinnati OH 45201-1159

DACA56, DACW56, DS—USA Engineer District, Tulsa, PO Box 61, Tulsa, OK 74121-0061

DACA57, DACW57, DT—USA Engineer District, Portland, PO Box 2496, Portland, OR 97208-2496

DACA58, DACW58, DU—USA Engineer Division, North Pacific, PO Box 2870, Portland, OR 97209-0898

DACA59, DACW59, DV—USA Engineer District, Pittsburgh, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186

DACA60, DACW60, DW—USA Engineer District, Charleston, PO Box 905, Charleston, SC 29402-0919

DACA61, DACW61, CF—USA Engineer District, Philadelphia, Custom House, 2nd & Chestnut Streets, Philadelphia, PA 19106-2991

DACA62, DACW62, DX—USA Engineer District, Nashville, PO Box 1070, Nashville, TN 37202-1070

DACA63, DACW63, DY—USA Engineer District, Fort Worth, PO Box 17300, Fort Worth, TX 76101-0300

DACA64, DACW64, DZ—USA Engineer District, Galveston, PO Box 1229, Galveston, TX 77553-1229

DACA65, DACW65, EA—USA Engineer District, Norfolk, 803 Front Street, Norfolk, VA 23510-1096

DACA66, DACW66, EB—USA Engineer District, Memphis, Rm B202, Clifford Davis Federal Office Building, Memphis, TN 38103-1894

DACA67, DACW67, EC—USA Engineer District, Seattle, PO Box C-3755, Seattle, WA 98124-2255

DACA68, DACW68, YW—USA Engineer District, Walla Walla Building 602, City-County Airport Walla Walla, WA 99362-9265

DACA69, DACW69, CG—USA Engineer District, Huntington, 502 Eight Street, Huntington, WV 25701-2070

DACA70, DACW70, YX—USA Engineer Division, Southwestern Main Tower Building, 1114 Commerce Street, Dallas, TX 75242-0216

DACA72, DACW72, ZA—Humphrey Engineer Support Activity Center, Kingman Building, Fort Belvoir, VA 22060-5580

DACA73, DACW73, CH—Office, Chief of Engineers, Attn: DAEN-ECP-C, Washington, DC 20314-1000

DACA74, DACW74, ZB—Rivers & Harbors, Board of Engineers, Tempo C Building, Second & C Streets, SW, Washington, DC 20315

DACA75, DACW75, ZC—USA Engineer Division, Middle East, APO New York, NY 09038

DACA76, DACW76, ZD—USA Engineer Topographic Laboratories, Fort Belvoir, VA 22060-5546

DACA78, DACW78, 9V—USA Engineer Division, Middle East, PO Box 2250, Winchester, VA 22601-1450

DACA79, DACW79, 2R—USA Engineer District, Japan APO San Francisco, CA 96343-0061

DACA81, DACW81—USA Engineer District, Far East APO San Francisco, CA 96301-0427

DACA84, DACW84, ZH—USA Engineer Division, Pacific Ocean Building 230, Ft. Shafter, HI 96858-5440

DACA85, DACW85, ZJ—USA Engineer District, Alaska PO Box 7002, Anchorage, AK 99506-0898

DACA86, DACW86—USA Engineer District, Riyadh, APO New York, NY 09038

DACA87, DACW87, ZW—USA Engineer Division, Huntsville, PO Box 1600 West Station, Huntsville, AL 35807-4301

DACA88, DACW88, B8—USA Construction Engineering Research Laboratory, PO Box 4005, Champaign, IL 61820-1305

DACA89, DACW89, 1Z—USA Cold Regions Research and Engineering Laboratory, 72 Lyme Road, Hanover, NH 03755-1290

DACA90, DACW90—USA Engineer Division, Europe, Attn: EUDPS-C, APO New York, NY 09757

DACA94, DACW94—MX Program Agency, Attn: CEMXPA, Norton AFB, CA 92409

DADA01, 2S—Letterman Army Medical Center, Attn: HSHH-LCP, Bldg 1060, Presidio of San Francisco, CA 94129-6700

DADA03, 8W—Fitzsimmons Army Medical Center, Attn: IOC-HPSP Aurora, CO 80045-5001

DADA09, YY—William Beaumont Army Medical Center, Attn: HSHM-LOC-CO, Box 70003, El Paso, TX 79920-5001

DADA10, ZQ—USA Health Services Command, Attn: Central Contracting Office, Ft. Sam Houston, TX 78234-6000

DADA11, OV—Brooke Army Medical Center, Attn: HSHE-LOC, Ft. Sam Houston, TX 78234-6200

DADA13, OW—Madigan Army Medical Center, Attn: HSHJ-LOC, Tacoma, WA 98431-5246

DADA15, OX—Walter Reed Army Medical Center, Attn: HSHL-P&C, Bldg T-20, Washington, DC 20307-5000

DADA16, OY—Tripler Army Medical Center, Attn: HSHK-LD-PC, Tripler, AMC, HI 96859-5000

DAEA08, E4—Headquarters, 7th Signal Command, Attn: ASN-OA-PC, Bldg 148, Ft Ritchie, MD 21719-5000

DAEA16, E7—Headquarters, 5th Signal Command, Attn: ASE-LG-C, APO New York, NY 09056-3140

DAEA18, BL—Headquarters, USA Garrison, Attn: Directorate of Contracting (ASHDOC-S), Ft Huachuca, AZ 85613-6000

DAEA20, E8—Commander, 1st Signal Brigade, Attn: ASK-LC, APO San Francisco, CA 96301-0044

DAEA28, OZ—USA Information Systems Engineering Command, Attn: ASW-MSD (STOP 40), Ft Belvoir, VA 22060-5456

DAHA01, 9B—USPFO for Alabama, PO Box 3715, Montgomery, AL 36193-4801

DAHA02, OG—USPFO for Arizona, 5636 E. McDowell Road, Phoenix, AZ 85008-3495

DAHA03, 9D—USPFO for Arkansas, Camp Joseph Robinson, North Little Rock, AR 72118-2200

DAHA04, 9N—USPFO for California, PO Box G, San Luis Obispo, CA 93403-8104

DAHA05, Z0—USPFO for Colorado, Camp George West, Golden, CO 80401-3997

DAHA06, 1S—USPFO for Connecticut, National Guard Armory, 360 Broad Street, Hartford, CT 06105-3779

DAHA07, 9A—USPFO for Delaware, Grier Building, 1161 River Road, New Castle, DE 19720-5199

DAHA08, 2W—USPFO for Florida, State Arsenal, St. Augustine FL 32084-1008

DAHA09, 2X—USPFO for Georgia, PO Box 17882, Atlanta, GA 30316-0882

DAHA10, 2Y—USPFO for Idaho, PO Box 45, Boise, ID 83701-4501

DAHA11, 9E—USPFO for Illinois, Camp Lincoln, 1301 North McArthur Blvd., Springfield, IL 62702-2317

DAHA12, 4E—USPFO for Indiana, PO Box 41346, Indianapolis, IN 46241-0346

DAHA13, 9L—USPFO for Iowa, Camp Dodge, 7700 Beaver Drive, Johnston, IA 50131-1902

DAHA14, 4Z—USPFO for Kansas, Kansas State Arsenal, PO Box 2099, Topeka, KS 6601-2099

DAHA15, 6P—USPFO for Kentucky, Boone National Guard Center, Frankfort, KY 40601-6192

DAHA16, 0A—USPFO for Louisiana, Headquarters Building, Jackson Barracks, New Orleans, LA 70146-0330

DAHA17, 0B—USPFO for Maine, Camp Keys, Augusta, ME 04333-0332

DAHA18, 0C—USPFO for Maryland, State Military Reservation, PO Box 206, Havre de Grace, MD 21078-0206

DAHA19, 0D—USPFO for Massachusetts, NG Supply Depot, 143 Speen Street, Natick, MA 01760-2599

DAHA20, 9F—USPFO for Michigan, 3111 W. St. Joseph Street, Lansing, MI 48913-5102

DAHA21, 9K—USPFO for Minnesota, Camp Ripley, PO Box. 288, Little Falls, MN 56345-0288

DAHA22, —USPFO for Mississippi, PO Box 4447, Fondren Station, Jackson, MS 39216-0447

DAHA23, 9H—USPFO for Missouri, 1715 Industrial Avenue, Jefferson City, MO 65101-1468

DAHA24, 9P—USPFO for Montana, State Arsenal Building, PO Box 1157, Helena, MT 69624-1157

DAHA25, USPFO for Nebraska, 1234 Military Road, Lincoln, NE 68508-1092

DAHA26, USPFO for Nevada, 2601 South Carson Street, Carson City, NV 89701-5596

DAHA27, USPFO for New Hampshire, State Military Reservation, PO Box 2003, Concord, NH 03301-2003

DAHA28, ZK—USPFO for New Jersey, PO Box 2000, Trenton, NJ 08607-2000

DAHA29, USPFO for New Mexico, PO Box 4277, Santa Fe, NM 87502-4277

DAHA30, USPFO for New York, Building 4, State Campus, Albany, NY 12226-5100

DAHA31, USPFO for North Carolina, 4201 Reedy Creek Road, Raleigh, NC 27607-6412

DAHA32, USPFO for North Dakota, PO Box 1817, Bismarck, ND 58502-5511

DAHA33, USPFO for Ohio. [illegible] W. Granville Road, Worthi[illegible] OH 43085-2712

DAHA34, USPFO for Oklahoma, 3501 Military Circle, NE., Oklahoma City, OK 73111-4398

DAHA35--USPFO for Oregon, PO Box 14840, Salem, OR 97303-5008

DAHA36, USPFO for Pennsylvania, c/o Dept. of Military Affairs (IGMR) Annville, PA 17003-5003

DAHA37—USPFO for Rhode Island, 51 Stenton Avenue, Providence, RI 02906-1954

DAHA38—USPFO for South Carolina, 9 National Guard Road, Columbia, SC 29201-4763

DAHA39—USPFO for South Dakota, 2823, West Main, Rapid City, SD 57702-8186

DAHA40—USPFO for Tennessee, PO Box 40748, Nashville, TN 37204-0748

DAHA41, 9C—USPFO for Texas, PO Box 5218, WAS, Austin, TX 78763-5218

DAHA42—USPFO for Utah, PO Box 2000, Draper, UT 84020-2000

DAHA43—USPFO for Vermont, Camp Johnson, Bldg. 1, Winooski, VT 05404-1697

DAHA44—USPFO for Virginia, 401 East Main Street, Richmond, VA 23219-2317

DAHA45—USPFO for Washington, Camp Murray, Tacoma, WA 98430-5000

DAHA46—USPFO for West Virginia, Buckhannon, WV 26201-2396

DAHA47, 9G—USPFO for Wisconsin, Camp Douglas, WI 54618-9002

DAHA48—USPFO for Wyoming, PO Box 1709, Cheyenne, WY 82003-1709

DAHA49—USPFO for the District of Columbia, Bldg. 350, Anacostia Naval Air Station, Washington, DC 20315-0350

DAHA50—USPFO for Hawaii, 3949 Diamond Head Road, Honolulu, HI 96816-4495

DAHA51—USPFO for Alaska, Camp Denali, Pouch B, FT Richardson, AK 99505-5000

DAHA70—USPFO for Puerto Rico, PO Box 3786, San Juan, PR 00904-3786

DAHA72—USPFO for Virgin Islands, PO Box 1050, Christiansted, St. Croix, VI 00820

DAHA74—USPFO for Guam, Ft Juan Muna, 622 E Harmond Park Road, Tamuning, Guam 96911-4421

DAHA90, 2Y—National Guard Bureau, Contracting Policy,Skyline Place 6, Suite 401-B, 5109 Leesburg Pike, Falls Church, VA 22041-3101

DAHC21, G3—MTMC Eastern Area, Attn: MTE-LOA, Bldg. 41, Bayonne, NJ 07002-5302

DAHC23, G4—MTMC Western Area, Attn: MTW-LOA, Oakland Army Base, Oakland, CA 94026-5000

DAHC24, 1B—HQ MTMC Acquisition Division, Attn: MT-LOA, 5611 Columbia Pike, Falls Church, VA 22041-5050

DAHC25—HQ MTMC, Directorate of Personal Property, Attn: MT-PP, 5611 Columbia Pike, Falls Church, VA 22041-5050

DAHC26, OE—HQTRS MTMC, TOPS Project Management Office, Attn: MT-TP, Ft Belvoir, VA 22060-5898

DAHC30, OF—MDW, DCS for Acquisition, Bldg. 15, Cameron Station, Alexandria, VA 22304-5050

DAHC31—The Adjutant General Center, Publication Center, Attn: DAIM-APR-F, Alexandria, VA 22331-0302

DAHC32, OM—National Defense University, Bldg. 59, Ft Leslie J. McNair, Washington, DC 20319

DAHC35, 2M—Ft Belvoir Directorate of Contracting, Bldg. T742, Ft Belvoir, VA 22060-5075

DAHC40—USA TSA Southeast Contracting Office, DALO-TAC-C, Bldg. T5204, Ft Lee, VA 23801-6025

DAHC41, OH—USA TSA Northeast Commissary Region, Attn: Contracting Division, Ft George G Meade, MD 20755-5220

DAHC42, OJ—USA TSA Midwest Commissary Region, Attn: Contracting Division (DALO-T-M-P), Ft Sam Houston, TX 78234-5000

DAHC43, OK—USA TSA Western Commissary Region, Attn: Contracting Division, Ft Lewis, WA 98433-0093

DAHC44, ZG—USA TSA Contracting Group, Bldg. P-12400, PO Box 5310, Ft Lee, VA 23801-6020

DAHC75, OU—US Army Western Command, Attn: ACSAM, Ft Shafter, HI 96858-5100

DAHC76, 8U—HQTRS 6th Inf Div (L) & USA Garrison Alaska, Attn: USAG-AK-DOC, Ft Richardson, AK 99505-5000

DAHC77, CJ—US Army Support Command, Hawaii, Attn: APZV-KOC, Ft Shafter, HI 96858-5025.

DAHC90, YJ—HQTRS Intelligence & Security Command, Attn: IALOG-C, Arlington Hall Station, Arlington, VA 22212-5000.

DAHC92, 1V—USA South, 41st Area Support Group, Directorate of Contracting, Attn: SOGA-CO, APO Miami, FL 34002-5000.

DAHC94, BD—Information Systems for Command, Control Communications & Computers (DISC4) SAIS-ZP, Alexandria, VA 22331-0700.

DAJA01, 9Q—Hqtrs USA Southern European Task Force, APO New York 09168.

DAJA02, G5—Seckenheim Area Contracting Office, Attn: USACAE/USAREUR, APO New York 09081.

DAJA04, 9R—Fourth Army Contracting Office, Attn: USACAF, APO New York, 09696-5345.

DAJA06, 9S—Chief, ACO Stuttgart USACAE, Attn: AEUPC-ST, APO New York 09154-0503.

DAJA09, BT—Giessen Suboffice—RCO Frankfurt, Attn: AEUCC-F-G, APO New York 09169

DAJA10, 9U—Chief, ACO Augsburg, Attn: AEUPC-AUG, APO New York 09178-0505

DAJA16, 8X—Chief, Grafenwoehr Sub-office, Attn: AEUPC-FH-G, APO New York 09114-5413.

DAJA18—Director of Purchasing, Armed Forces, Recreation Center, Germany (AFRC) APO New York 09053.

DAJA23, 9W—Commander, USA Berlin, Attn: AEBA-PR, APO New York 09742.

DAJA25, 9X—Chief, ACO Bremerhaven, Attn: AEUPC-BRN, APO New York 09069-0030.

DAJA37, G6/O1—Commander, USACAE, Attn: AEUCC-MP, Box 49, APO New York 09710-53445.

DAJA45, 9Y—Commander, 47th Area Support Group, Attn: AERUK-SP, APO New York 09075.

DAJA61, 9Z—Hqtrs USAREUR & 7th Army, Attn: Brussels RCO, APO New York 09667-5005.

DAJA76, 8V—Chief, ACO Frankfurt, Attn: AEUPC-FRT-S, Box 73, APO New York 09710.

DAJA83, 2Z—RCO Rheinberg, Attn: AEUCC-R, APO New York 09712.

DAJA84—Fulda Suboffice—RCO Frankfurt, Attn: AEUCC-F-FD, APO New York 09146-0979.

DAJA85, B8—Hanau Suboffice—RCO Frankfurt, Attn: AEUCC-F-H, APO New York 09165-5345.

DAJA86, CO—Mainz-Kastel Suboffice—RCO Frankfurt, Attn: AEUCC-F-MK, APO New York 09457.

DAJA87, DO—Mid-East CAS Branch—USAREUR Contract Center, Attn: AEUCC-C-CI, APO New York 09672-0008.

DAJA88, EO—United Kingdom CAS Branch—USAREUR Contract Center, Attn: AEUCC-C-CU, APO New York 09083-5000.

DAJA89, FO—Wuerzburg Suboffice—RCO Fourth, Attn: AEUCC-FU-W, APO New York 09801-2013.

DAJA90, OT—Bad Kreuznach Suboffice—RCO Frankfurt, Attn: AEUCC-F-BK, APO New York 09252-0029.

DAJB03, F4—USA Korea Contracting Agency, Attn: EAKC-CSS, APO San Francisco, CA 96301-0062.

DAKF01, 1A—Presidio of San Francisco, Attn: AFZM-DI-PR, Bldg 650, Presidio of San Francisco, CA 94129-5607

DAKF03, F2—Directorate of Contracting, Attn: AFZW-PC, PO Box 27, Ft. Ord, CA 93941-0027

DAKF04, ZE—US Army National Training Center, Attn: AFZJ-DCP, PO Box 10039, Ft. Irwin, Barstow, CA 92311-5000

DAKF06, 1C—DCQA, Attn: AFZC-CQ-C, Bldg 6048, Fort Carson, CO 80913-5000

DAKF10, 1D—Contracting Division, Attn: AFZP-DIP, Ft. Stewart, GA 31313-5192

DAKF11, 1E—Contracting Division, Attn: AFZK-DI-C, Ft. McPherson, GA 30330-5000

DAKF12, BC—FORSCOM Contracting Office, Building 228, Ft. McPherson, Atlanta, GA 30330-6000

DAKF15, 1F—Contracting Division, Attn: AFZO-DI-C, Ft. Sheridan, IL 60037-5000

DAKF19, 1G—Contracting Division, Attn: AFZN-DI-C, Ft. Riley, Junction City, KS 66442-0248

DAKF23, 1H—Contracting Division, Attn: AFZB-DI-PC, Ft. Campbell, Oak Grove, KY 42223-1293

DAKF24, G1—Contracting Division, Attn: AFZX-DI, Ft. Polk, Leesville, LA 71459-5000

DAKF27, 1J—Contracting Division, Attn: AFZI-DI-C, Ft. Meade, Ft. George G. Meade, MD 20755-5081

DAKF31, 1K—Contracting Division, Attn: AFZD-DI-P, Ft. Devens, Ayer, MA 01433-5340

DAKF36, 1M—Contracting Division, Attn: AFZS-DI-P, Ft. Drum, Watertown, NY 13602-5000

DAKF40, 1N—Contracting Division, Attn: AFZA-DI-C, Ft. Bragg, Drawer 70120, Fayetteville, NC 28306-0120
DAKF48, 1Q—Contracting Division Attn: AFZF-DI-CON, Ft. Hood, Killeen, TX 76544-5059
DAKF49, 1R—Contracting Division, Attn: AFZG-DI-P, Ft. Sam Houston San Antonio, TX 78234-5000
DAKF57, 1T—Contracting Division, Attn: AFZH-DI-P, Ft. Lewis, Tacoma, WA 98433-5000
DAKF61, 1U—Contracting Division, Attn: AFZR-DI-P, Ft. McCoy, Sparta, WI 54656-5000
DAMD17, B3—US Army Medical Research Acquisition Activity, Ft. Detrick, Attn: SGRD-RMA, Ft. Detrick, MD 21701-5014
DASG60, CB—Deputy Commander, USA Strategic Defense Command, Attn: CSSD-H-CPP, PO Box 1500, Huntsville, AL 35807-3801

Department of the Navy

N00011, LB,* LBZ—Chief of Naval Operations, Washington, DC 20350-2000
N00013, MR—Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332
N00014, EE—Office of Naval Research, Arlington, VA 22217
N00015, LO,* LOZ—Naval Intelligence Command HQ (Suitland, MD), 4600 Silver Hill Road, Washington, DC 20389
N00018, MC,* MD,* J5,* MCZ—Naval Medical Command, Washington, DC 20372-5120
N00019, EF,* EFO-9-Naval Air Systems Command, Washington, DC 20361
N00023, 4J,* 4JO-9—Commander, Naval Supply Systems Command, Washington, DC 20376
N00024, EH,* EHO-9—Naval Sea Systems Command, Washington, DC 20360
N00025, EJ,* FZ,* EJO-9—Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332
N00030, EK,* EKO-9—Strategic Systems Programs, Department of the Navy, Washington, DC 20376-5002
N00032, GU—Director of Contracts, Cruise Missiles Project, Washington, DC 20360
N00033, EL—Commander, Military Sealift Command, Washington, DC 20390
N00034, EM—Navy Finance Center, Navy Military Pay System, Cleveland, OH 44114
N00039, NS—Space and Naval Warfare Systems Command, Washington, DC 20360
N00060, LH,* LHZ—Commander-in-Chief, Atlantic Fleet, Norfolk, VA 23511
N00062, 8A,* L9,* RO,* 8AO-9—Chief of Naval Education and Training, Code 013, NAS, Pensacola, FL 32508-5100
N00063, NT,* NTZ—Naval Telecommunications Command, 4401 Massachusetts Avenue, NW, Washington, DC 20394-5290
N00065, SO,* SOZ—Naval Oceanography Command, NSTL, MS 39529-5000
N00069, 8Q,* 8QZ—Naval Security Group HQ, 3801 Nebraska Avenue NW, Washington, DC 20390-0008
N00070, LP,* V5,* LPZ—Commander in Chief Pacific Fleet, Pearl Harbor, HI 96860-7000
N00072, 9T,* 9TZ—Commander Naval Reserve Force Code 17, New Orleans, LA 70146
N00101, 3R—Naval Air Station, South Weymouth, MA 02190
N00102, EN—Portsmouth Naval Shipyard, Portsmouth, NH 03801
N00104, EP, EQ—Navy Ships Parts Control Center, Mechanicsburg, PA 17055
N00105, JT—Naval Medical Clinic NAVSHIPYD, Portsmouth, NH 03801
N00109, F1—Naval Weapons Station, Yorktown, VA 23491
N00123, ES—Commanding Officer, Naval Regional Contracting Center, 937 N. Harbor Drive, San Diego, CA 92132-5075
N00124, M5—Naval War College, Newport, RI 02840
N00127, H1—Naval Air Station, Quonset Point, RI 02819
N00128, EU—Supply Department, Naval Administrative Command, Naval Training Station, Great Lakes, IL 60088
N00129, EV—Submarine Base, New London, Groton, CT 06340

N00140, EX, LA—Commanding Officer, Naval Regional Contracting Center, Naval Base Bldg. No. 600, Philadelphia, PA 19112
N00146, QK —Marine Corps Air Station, Cherry Point, NC 28533
N00151, EY—Philadelphia Naval Shipyard, Philadelphia, PA 19112
N00153, NO—Governor, Naval Home, 01800 East Beach Blvd., Gulfport, MS 39501
N00158, 3V—Naval Air Station, Willow Grove, PA 19090
N00161, FA—Naval Academy, Annapolis, MD 21402
N00163, FB—Naval Avionics Center, 21st and Arlington Avenue, Indianapolis, IN 46218
N00164, FC—Naval Weapons Support Center, Crane, IN 47522
N00166, LC—Naval Air Facility Bldg. 3086, Andrews AFB, Washington, DC 20396-5130
N00167, FD—David W. Taylor Naval Ship Research & Development Center, Carderock Laboratory, Bethesda, MD 20084-5000
N00168, FE—Naval Medical Command, National Capital Region, Bethesda, MD 20014
N0017A—Atlantic Fleet Weapons Training Facility, (Code 51), (Roosevelt Roads, PR) Naval Station, Box 3023, FPO Miami 34051
N00171 N5—HQ, Naval District Washington, Washington Navy Yard, Washington, DC 20374
N00173, FF—Naval Research Laboratory, Washington, DC 20390
N00174, FG—Naval Ordnance Station, Indian Head, MD 20640
N00181, FJ—Norfolk Naval Shipyard, Portsmouth, VA 23709
N00187, 3J—Navy Public Works Center, Norfolk, VA 23511
N00188 H2—Naval Air Station Norfolk, VA 23511
N00189 FK, H3—Naval Supply Center Norfolk, VA 23512
N00191 FL—Charleston Naval Shipyard Naval Base, Charleston, SC 29408
N00193, (MAJ00024), EHD-G—Commanding Officer (Code 11), Naval Weapons Station Charleston, SC 29408-7000
N00196, 3K—Commanding Officer (Code 60), Naval Air Station, Atlanta, Marietta, GA 30060
N00197, FM—Naval Ordnance Station, Louisville, KY 40214
N00203 (MAJ00018), MCL—Commanding Officer, Naval Hospital, Pensacola, FL 32512
N00204, FN—Naval Air Station (Code 19P10), Pensacola, FL 32508
N00205, FP—Naval Support Activity (Code N443), New Orleans, LA 70146
N00206—Naval Air Station, New Orleans, LA 70146
N00207, FQ—Naval Air Station, Jacksonville, FL 32212
N00211 (MAJ00018), MCQ-S—Naval Hospital, Great Lakes, IL 60088-5230
N00213, H4—Naval Air Station, Key West, FL 33040
N00215, 3W—Naval Air Station (Code 60), Dallas, TX 75211
N00216, FR—Commanding Officer (Code 194), Naval Air Station, Bldg. 10, Corpus Christi, TX 78419
N00221, K5—Mare Island Naval Shipyard, Vallejo, CA 94592
N00228, FU—Naval Supply Center, Oakland, CA 94625
N00231—Commanding Officer, Naval Medical Clinic, Quantico, VA 22134
N00232 (MAJ00018), MCC-E—Naval Hospital, Jacksonville, FL 32214-5222
N00236, NX—Naval Air Station, Alameda, CA 94501
N00244, NW—Naval Supply Center, Naval Base, 937 North Harbor Drive, San Diego, CA 92132
N00245 (MAJ00070), LPN—Naval Station San Diego, CA 92136-5000
N00246, H5—Naval Air Station, North Island, San Diego, CA 92135
N00247, HC—Naval Training Center San Diego, CA 92133
N00249—Commanding Officer, Civil Engineer Support Office, Naval Construction Battalion Center, Port Hueneme, CA 93043
N00250, FW—Commander, Navy Resale and Services Support Office, Fort Wadsworth, Staten Island, NY 10305
N00251, FX—Puget Sound Naval Shipyard, Bremerton, WA 98314
N00253, FY—Commanding Officer, Naval Undersea Warfare Engineering Station, Keyport, WA 98345
N00255 (MAJ00070), LPS-T, LPW-X—Naval Station Puget Sound, Seattle, WA 98115-5000

N00267 (MAJ00018), MCO-1—Commanding Officer, Naval Medical Clinic, Key West, FL 33040

N00274—Naval Air Facility, Detroit, Selfridge Air Force Base, Supply Department, Mt. Clemens, MI 48045

N00275, 3M—Naval Air Station, Glenview, IL 60026

N00276—Naval Air Station, Twin Cities, Minneapolis, MN 55450

N00281 (MAJ00062), L90-1—Commanding Officer, Fleet Combat Training Center, Atlantic Dam Neck, Virginia Beach, VA 23461

N00285 (MAJ00018), MDR—Commanding Officer, Naval Hospital, Corpus Christi, TX 78419

N00288—Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120

N00296, NY—Naval Air Station, Moffett Field, CA 94035

N00311, GA—Pearl Harbor Naval Shipyard, Box 400, Pearl Harbor, HI 96860

N00314, M7—Submarine Base, Pearl Harbor, HI 96660

N00334, N6—Naval Air Station, Barbers Point, HI 96862

N00383, GB, GC—Navy Aviation Supply Office, 700 Robbins Avenue, Philadelphia, PA 19111

N00389, KL, MM—Contracting Officer (Code 192), U.S. Naval Station (Roosevelt Roads, PR), Box 3002, FPO Miami 34051

N00406, GE—Naval Supply Center, Puget Sound, Bremerton, WA 98314

N00421, M8—Naval Air Test Center, Patuxent River, MD 20670

N00600, GG—Naval Regional Contracting Center, Washington Navy Yard, Washington, DC 20374

N00604, NQ—Naval Supply Center, Pearl Harbor, Pearl Harbor, HI 98660

N00612, GH—Commanding Officer, Naval Supply Center, RCD, Code 200M, Charleston, SC 29408

N00620, H6—Naval Air Station, Whidbey Island, Oak Harbor, WA 98277

N00639, H7—Commanding Officer, Naval Air Station, Memphis (84), Millington, TN 38054

N00651, H8—Naval Supply Depot, Subic Bay (Philippines), Box 33, FPO San Francisco, CA 96651

N00702 (MAJ00069), 8QM-N—Naval Security Group Activity, Winter Harbor, ME 04693

N00743, 8N—Commanding Officer, Naval Communication Station (Roosevelt Roads, PR), Box 3022, FPO Miami 34051

N00788—Commanding Officer, Naval Communication Unit, Washington (Cheltenham, MC), Washington, DC 20390

N00849 (MAJ00069), 8QC-Naval Security Group Activity, Skaggs Island Sonoma, CA 95476-5000

N00886, QB—Naval Communication Station, San Francisco, Rough and Ready Island, Stockton, CA 95203

N00927 (MAJ00063), NTA—U.S. Naval Communication Station (San Miguel), FPO San Francisco 96656-1803

N00950, 8R—Naval Communication Area, Master Station, EASTPAC Wahiawa, HI 96786

N0417A (MAJ00025), EJA—Naval Support Facility, PO Box 1000, Thurmont, MD 21788

N0428A, 3Q—Naval Air Station, Patuxent River, MD 20670

N0429A, 3A—Naval Air Station, Point Mugu, CA 93042

N0463A, EHC—Commanding Officer, Navy Experimental Diving Unit, NAVCOASTSYSCEN, Bldg. 321 Panama City, FL 32401

V04697 (MAJ00060), LHA—USS Simon Lake, FPO Miami, FL 34085-2590

N0488A, HS—Navy Manpower Engineering Center Detachment, San Diego, CA 92147

N0597A (MAJ31699), HXP-W—Director, Office of Civilian Personnel Management, Southeast Region Bldg A-67, Naval Base, Norfolk, VA 23511-6098

N0598A (MAJ31699), HXN—Director Office of Civilian Personnel Management, Pacific Division, Box 119 Pearl Harbor, HI 96860-5060

N0604A (MJ31699), HXJ-L—Director Office of Civilian Personnel Management, Northwest Region, 2890 North Main Street, Suite 301, Walnut Creek, CA 94596-2739

N0605A (MAJ31699), HXG-H—Director, Office of Civilian Personnel Management, Northeast Region Bldg 75-3 Naval Base, Philadelphia PA 19112-5006

N0618A (MAJ00062), 8AE—School of Music, Naval Amphibious Base, Little Creek, Norfolk, VA 23521-5240

N0619A, 8E—Naval Health Sciences Education & Training Command, NAVMEDCOM NATCAPREG, Bethesda, MD 20814

N08939—Navy Section, US Military Group (Caracas, Venezuela), Department of State, Washington, DC 20521

N09534—Navy Section, US Military Group (Lima, Peru) APO Miami 34031

N09550, 4G—Commander Fleet Air Mediterranean (Naples, Italy), FPO New York, NY 09521

N30492 (MAJ00039) NSC—David W. Taylor Naval Ship Research and Development Center Detachment Puget Sound, Bremerton, WA 98324-5215

N30776, 4N—Naval Air Station, Kingsville Auxiliary Landing Field Detachment, Orange Grove, TX 77630

N30779, 3Z—Naval Auxiliary Landing Field, Goliad, TX 77963

N30829—Officer in Charge, Naval Support Activity, Naples Detachment (Gaeta, Italy) FPO New York 09522

N30929—Commanding Officer, Navy Flight Demonstration Squadron (Blue Angels), Naval Air Station (Attn: Supply Officer), Pensacola, FL 32508

N31149 (MAJ00024), EHA—Naval Sea Logistics Center Det Philadelphia, Naval Base, Philadelphia, PA

N31699, V8,* HX,* V8Z—Office of Under Secretary of the Navy, Washington, DC 20350-1000

N31701 (MAJ31699), V80-1—Assistant Secretary of the Navy (Shipbuilding & Logistics) Washington, DC 20360-5000

N31863—Director, Naval Audit Service, Capital Region, P.O. Box 1206, Falls Church, VA 22041

N31954 (MAJ00062), ROX—Submarine Training Facility, San Diego, CA 92106

N32525, 8S—U.S. Naval Communication Detachment, Naples Detachment (Sigonella, Italy), FPO New York 09523

N32778 (MAJ00070), 4LE—Fleet Activities, China (Korea) FPO San Francisco 98769-1100

N32832 7K—Naval Aviation Logistics Center European Repair and Rework Activity Representative (Alverca, Portugal) APO New York, NY 09285

N32960 K2—Navy Support Office, La Maddelena (Sardinia Italy) FPO New York 09533

N3317—Naval Intelligence Operations Group DET CTG 168.4 (Munich, Germany) APO New York 09108

N39167—Commanding Officer Naval Brach Medical Clinic Naval Air Station Meridian, MS 39309

N39353, GV—Commanding Officer, Integrated Combat Systems Test Facility, San Diego, CA 92152

N41756, LE—Navy Engineering Logistics Office Washington, DC 20000

N42237, 7A—Commanding Offier, Naval Submarine Base, Code N411, Kings Bay, GA 31547

N44405 (MAJ00062), 8AA—Antilles Consolidated School System, Box 3200 (Roosevelt Roads, PR), FPO Miami 34051

N44416 (MAJ00023), 4JL—Navy Publishing and Printing Service Northern Area, 700 Robbins Avenue, Philadelphia, PA 19111-5093

N44930 KN—Intra-Fleet Supply Support Operations Program Norfolk, VA 23512

N44967 KP—Naval Sea Systems Command Detachment (PERA CSS) San Francisco, CA 94124-2995

N45045 (MAJ31699) V8A—Navy Comptroller Standard Systems Activity Det. Raleigh Oaks Plaza Office Bldg 3606 Austin Peay Highway Memphis, TN 38128-3757

N45406 LD—Officer in Charge, Naval Sea Systems Command Detachment (PERA CV), Bremerton, WA 98310-0206

N45411 (MAJ00070) LPE—Assault Craft #5, MCB Camp Pendleton, CA 92055-5003

N45854 V1—Fleet Surveillance Support Command, Chesapeake, VA 23322-5010

N46079—Military Sealift Command Office, Northern Europe (Bremerhaven, Germany) APO New York 09069-0006

N46450 L5 Naval Supply Center, Charleston Detachment Naval Submarine Base Kings Bay, GA 31547

N46531 (N31699) HXO-E—Office of Civilian Personnel Management National Capital Region 801 N. Randolph Street Arlington, VA 22203

N46656 NP—Telecommunication Management Detachment West, 937 North Harbor Drive San Diego, CA 92132-5104

N46657 (MAJ00063) NTO-NT1—Telecommunication Management Detachment Pacific Wahiawa, HI 96786-3050

N46658 LQ—Telephone Management Detachment East Wards Corner Executive Center, Suite 222 138 E. Little Creek Road Norfolk, VA 23505

N46659 KJ—Telephone Management Detachment Europe (Naples, Italy) FPO New York 09524

N46904, JO—Commanding Officer, Precommissioned Unit, Antisubmarine Warfare Training Group, Atlantic, Bldg CEP 104, Naval Station, Norfolk, VA 23511-6495

N52846 (MAJ00019) EFA-B—Naval Aviation Depot Operations Center European Repair and Rework Activity (Naples, Italy) FPO New York 09521

N52855 LZ—Special Boat Unit 11 FPO San Francisco 96601-4517

V53210 (MAJ00060) LHJ-K—Assault Craft Unit 2, Naval Amphibious Base, Little Creek Norfolk, VA 23520

N53825 GY—Naval Surface Force, US LANTFLT, Norfolk, VA 23511-6002

V55322 (MAJ00060) LHN—Explosive Ordnance Disposal Group Two, Fort Story, VA 23459-5024

R55418 (MAJ00070) V50—Naval Support Force Antarcica, Detachment Christchurch (Christchurch, New Zealand) FPO San Francisco 96690

N57012 GQ—Commander Naval Air Force, U.S. Atlantic Fleet Naval Air Station, Norfolk, VA 23511

N57007, VO—Commander, Middle East Force (Jufair, Bahrain), FPO New York 09501-6008

N57023, GT—Commander, Operational Test and Evaluation Force, Naval Base, Norfolk, VA 23511

N57032—Naval Air Facility (Mildenhall, UK) FPO New York 09127

N57053 (MAJ00070) LPQ—Naval Facility, Centreville Beach, Ferndale, CA 95536-9766

N57075 (MAJ00060) LH9—Commanding Officer, Naval Facility Argentia (Canada) FPO New York 09597-1051

N57095 (MAJ00060) LHO-LHI—Atlantic Fleet Headquarters Support Activity, CINLANTFLEET, Norfolk VA 23511

N57100 (MAJ00070) LPO-1—Naval Special Warfare Group One NAVPHIBASE Coronado San Diego, CA 92155

N60002—Commanding Officer, Naval Hospital, Millington, TN 38054

N60028 QC—Naval Station, Treasure Island, San Francisco, CA 94130

N60036, QD—Naval Weapons Station Concord, CA 94520

N60042 (MAJ00070) LPU—Naval Air Facility, El Centro, CA 92243

N60050, HD—Marine Corps Air Station, El Toro, Santa Ana, CA 92709

N60087, 3P—Naval Air Station, Burnswick, ME 04011

N60169, WO—Commanding Officer Marine Corps Air Station, Beaufort SC 29904

N60191, 4A—Naval Air Station Oceana Virginia Beach, VA 23460

N60200, 3G—Commanding Officer, Naval Air Station, Cecil Field, FL 32215

N60201, L7—Commanding Officer Naval Station, P.O. Box M, Mayport FL 32228

N60211, 3D—Naval Auxiliary Landing Field, Crows Landing, CA 95313

N60234, 4R—Naval Air Station, Whiting Field, OLF Saufley Field, Pensacola, FL 32508

N60241, 3X—Commanding Officer Naval Air Station, Bldg. 2701, Kingsville, TX 78363

N60258, GK—Long Beach Naval Shipyard, Long Beach, CA 90801

N60259, H9—Naval Air Station, Miramar San Diego, CA 92145-5000

N60268 (MAJ62980) MQO-1—Navy Recruiting District Chicago, Glenview, IL 60026-5200

N60376, 3Y—Commanding Officer Naval Air Station, Chase Field, Beeville, TX 78103

N60462, WE—Naval Air Station, Adak (Alaska), FPO Seattle, WA 98791-1200

N60478, 3C—U.S. Naval Weapons Station, Earle, Colts Neck, NJ 07722

N60495, 3T—Naval Air Station, Fallon NV 89406

N60508, 4Q—Commanding Officer, Naval Air Station, Whiting Field, Milton, FL 32570
N60514, GL—Commanding Officer, Naval Station (Guantanamo Bay, Cuba), Box 33, FPO New York 09593
N60530, GM—Naval Weapons Center, China Lake, CA 93555
N60656, GN—Navy Resale Activity, Naval Station, Annapolis, MD 21402
N60663, GR—Officer in Charge, Navy Resale Activity, Commissary Support Office, Naval Base, Bldg 2600, Great Lakes, IL 60088
N60666, GS—Navy Resale Activity, Naval Air Station, Key West, FL 33040
N60676, GX—Navy Resale and Services Support Office, Field Support Office Commissary Div., Naval Air Station, Mechanicsburg, PA 17055
N60681, HA—Commissary Store Division, NAVRESSOFSO, Naval Station, San Diego, CA 92136
N60693, HB—Navy Resale Activity, Commissary Support Office, Naval Base Pearl Harbor, Box 110, Pearl Harbor, HI 96860
N60701, 4M—Naval Weapons Station, Seal Beach, CA 90740
N60865, (MAJ00070), V5X—Naval Forces, Marianas (Guam), FPO San Francisco 96630
N60872 (MAJ00070), V5T—Naval Magazine (Guam), FPO San Francisco 96630-1300
N60895, HF—Commissary Store Division, NAVRESSOFSO, Naval Air Station, Alameda, CA 94501
N60921, HG, FH—Commander, Naval Surface Weapons Center, Headquarters, Dahlgren, VA 22448
N60935, HH—Commissary Store Div, NAVRESSOFSO, Naval Air Station, Jacksonville, FL 32212
N60936, HJ—Navy Resale Activity Commissary Region Support Office, Naval Air Station, Pensacola, FL 32508
N60937, HK—Navy Resale Activity Det Commissary Store, Naval Support Activity, New Orleans, LA 70140
N60938, HL—Navy Resale Activity, Commissary Support Office, Naval Air Station, Corpus Christi, TX 78419
N60939, HM—Navy Resale Activity Commissary Store, Naval Air Station, Memphis 32, Millington, TN 38054
N60951 (MAJ00060), LHU—Fleet Accounting and Disbursing Center, U.S. Atlantic Fleet, Norfolk, VA 23511-6096
N61115, HN—Navy Resale Activity, Submarine Base, New London, Groton, CT 06340
N61119, HP—Naval Supply Depot, Guam, FPO San Francisco, CA 96630
N61165, NN—Supply Officer, Bldg NS46, Naval Station, Charleston, SC 29408-5000
N61174, 7B—Naval Station, New York, Brooklyn, NY 11251
N61189—Naval Station, Philadelphia, PA 19112
N61217, HQ—Navy Resale Activity, Naval Air Station, Bermuda, FPO New York 09560
N61331, HR—Commanding Officer, Naval Coastal Systems Center, Panama City, FL 32407
N61337, HO—Commanding Officer, Naval Hospital, Beaufort, SC 29904
N61339, HT—Commanding Officer, Naval Training Systems Center (N-601), Orlando, FL 32826-3275
N61414, 4B—Naval Amphibious Base, Little Creek Norfolk, VA 23521
N61463, (MAJ00060), LHC—Naval Base, Norfolk, VA 23511-6002
N61466, Commander, Naval Base, Bldg NH48, Charleston, SC 29408
N61510, HU—Navy Resale Activity, Naval Station, Guam, Box 179, FPO San Francisco, CA 96630
N61533, HW—David W. Taylor Naval Ship Research and Development Laboratory, Annapolis, MD 21402
N61564, FS—Naval Hospital, NAVBASE (Guantanamo Bay, Cuba) FPO New York 09593
N61577 (MAJ00070), V5P—Naval Air Station, Agana (Guam), Box 60, FPO San Francisco 96630-1200
N61581, (MAJ00070), 4LT—Fleet Activities (Yokosuka, Japan) FPO, Seattle, 98762-1100
N61685 (MAJ00065), SOA—Naval Oceanography Command Center (Guam), Box 12, FPO San Francisco 96630-2926
N61726, QL—Naval Hospital, Naval Submarine Base, New London, Groton, CT 06349

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N61751 (MAJ00018), MCN, Naval Medical Research Unit No. 3, Cairo (Egypt), FPO New York 09527-1600

N61755 (MAJ00070), V5E—Naval Station (Guam), FPO San Francisco 96630-1000

N61762, HY—Naval Ordnance Missile Test Facility, White Sands Missile Range, NM 88002

N62021, 7V—Naval Amphibious Base, Coronado, San Diego, CA 92155

N62161, HZ—Navy Resale Activity Det, Rough and Ready Island, Stockton, CA 95203

N62190—Commanding Officer, Naval Research Laboratory, Underwater Sound Reference Detachment, P.O. Box 8337, Orlando, FL 32856

N62191 (MAJ00062), L97—Commanding Officer, Naval Reserve Officers Training Corps and Naval Administrative Unit, Room 20E-125, Massachusetts Institute of Technology, Cambridge, MA 02139

N62254 (MAJ00070), 4LX—Commander Fleet Activities, Okinawa, Naval Air Facility, Kadena (Ryukyu Islands Southern), Box SU/CR, FPO Seattle 98770-1100

N62269, JC—Commander, Naval Air Development Center, Johnsville, Warminster, PA 18974

N62271, QE—Naval Postgraduate School, Monterey, CA 93940

N62285 (MAJ00065), S00-S01—Naval Observatory, Washington, DC, 34th and Massachusetts Avenue NW., Washington, DC 20390-5100

N62306, 7C—Commanding Officer (Code 4410), Naval Oceanographic Office, National Space Technology Laboratory, Bay St. Louis, MS 39552

N62367 (MAJ00023), 4JC—Navy Clothing and Textile Research Facility, 21 Strathmore Road, Natick, MA 01760-2490

N62376, 4K—Commanding Officer, Naval Air Propulsion Center, P.O. Box 7176, Trenton, NJ 08628

N62381, JG—Military Sealift Command, Atlantic, Military Ocean Terminal, Building 42, Bayonne, NJ 07002

N62382, Military Sealift Command Office, Gulf Subarea, 4400 Dauphin Street, New Orleans, LA 70146

N62383, JH—Military Sealift Command, Pacific, Naval Supply Center, Oakland, CA 94625

N62387, Commander, Military Sealift Command (Code M10-3), 4228 Wisconsin Avenue, Washington, DC 20016

N62395, JK—Navy Public Works Center, Mariana Island Guam (U.S.), FPO San Francisco 96630-2937

N62404, JJ—Military Sealift Command, Far East, (Yokahama, Japan), FPO Seattle 98760

N62410 (MAJ62980), MQ6—Navy Recruiting District, P.O. Box 8667, Albuquerque, NM 87198-8667

N62412 (MAJ62980), MLR—Commanding Officer, Navy Recruiting District, Perry Hill Office Park, 3815 Interstate Court, Montgomery, AL 36109-5294

N62415 (MAJ62980) MLX—Commanding Officer, Navy Recruiting District, Strom Thurmond Federal Bldg., Suite 771, 1835 Assembly Street, Columbia, SC 29201-2430

N62416, NV—Navy Recruiting District Columbus Room 609, Federal Bldg., 200 North High Street, Columbus, OH 44142-2474

N62419—Commanding Officer, Navy Recruiting District, Melrose Bldg., 1121 Walker Street, Houston, TX 77002

N62422—Commanding Officer, Navy Recruiting District, 2974 Woodcock Drive, Jacksonville, FL 32207

N62423—Commanding Officer, Navy Recruiting District, 301 Center Street, Little Rock, AR 72201

N62425—Commanding Officer, Navy Recruiting District, 1808 West End Ave., Suite 1312, Nashville, TN 37203

N62427—(MAJ62980) MLP—Navy Recruiting District Omaha, Overland-Wolf Bldg, 6910 Pacific Omaha, NE 68106

N62429 (MAJ62980) MLE—Navy Recruiting District Portland, 1220 SW Third Avenue, Suite 576, Portland, OR 97204

N62430—Commanding Officer, Navy Recruiting District, 1001 Navaho Drive, Raleigh, NC 27609

N62437 (MAJ62980) MQ4—Commanding Officer, Navy Recruiting District, 918 So. Ervay Street, Dallas, TX 75201

N62438 (MAJ62980) MLQ—Navy Recruiting District Denver, Capital Life Center, 3rd Floor, 1600 Sherman Street, Denver, CO 80203-1668

N62440 (MAJ62980)—Navy Recruiting District, 2420 Broadway, Kansas City, MO 64108

N62441 (MAJ62980) MLG—Navy Recruiting District Los Angeles, 5051 Rodeo Road, Los Angeles, CA 90016

N62442—Commanding Officer, Navy Recruiting District Atlanta, 612 Tinker Street, Suite C, Marietta, GA 30060

N62443 (MAJ62980) MLV—Navy Recruiting District, Federal Office Bldg., 2nd & Washington Avenues, S., Minneapolis, MN 55401

N62444—Commanding Officer (Code 602-2C), Navy Recruiting District, 4400 Dauphine Street, New Orleans, LA 70146

N62448 (MAJ62980) MLN—Navy Recruiting District San Francisco, 1500 Broadway, Room 210, Oakland, CA 94612-1430

N62449 (MAJ62980) MLC—Navy Recruiting District Seattle, Naval Station, Bldg. 30, Seattle, WA 98115-5105

N62467, JM—Commanding Officer, Naval Facilities Engineering Command, Southern Division, (SOUTHNAVFACENGCOM), 2155 Eagle Drive, P.O. Box 10068, Charleston, SC 29411-0068

N62470, JN—Naval Facilities Engineering Command, Atlantic Division, Norfolk, VA 23511

N62471, N7—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Mid-Pacific, Pearl Harbor, HI 96860

N62472, JP—Naval Facilities Engineering Command, Northern Division, U.S. Naval Base, Philadelphia, PA 19112

N62474, JR—Naval Facilities Engineering Command, Western Division, San Bruno, CA 94066

N62477, JU—Naval Facilities Engineering Command, Chesapeake Division, Washington Navy Yard, Washington, DC 20390

N62481, N8—Naval Air Station, Bermuda, FPO New York 09560

N62507 (MAJ00070) 4LJ—Commanding Officer, Naval Air Facility, Atsugi, Japan Box 3, FPO Seattle 98767-1200

N62522 JV—Military Sealift Command, Europe (London, UK) Box 3, FPO New York 09510-3700

N62535, HE—Marine Corps Air Station (HELO) Tustin, CA 92710

N62537—Military Sealift Command, Mediterranean Sub-Area (Naples, Italy), Box 23, FPO New York 09521-0600

N62538, K1—Military Sealift Command Office, NSC Bldg Y100A, Norfork, VA 23512

N62539—Military Sealift Command Office, United Kingdom (London, UK) Box 29, FPO New York 09510-3700

N62573, K8—Marine Corps Air Station, New River Plaza, Jacksonville, NC 28540

N62576 (MAJ00023), 4JG—Navy Publishing and Printing Service, 700 Robbins Avenue, Philadelphia, PA 19111-5094

N62578, J2—Naval Construction Battalion Center, Davisville, RI 02854

N62583, J3—Naval Construction Battalion Center, Port Heuneme, CA 93041

N62585, K3—Commander, Naval Activities, United Kingdom, (London, UK), FPO New York 09510

N62586 (MAJ00070), V5A—Naval Ship Repair Facility (Guam), FPO San Francisco 96630-1400

N62588, NR—Naval Support Activity, Naples (Italy), FPO New York 09521

N62593—Director, Navy Publications & Printing Services Det Office, Southeast Div., 4400 Dauphine St., Unit 601-3-B, New Orleans, LA 70146

N62603—Commanding Officer, Fleet & Mine Warfare Training Center, Naval Base, Bldg 647, Charleston, SC 29408

N62604, J4—Commanding Officer, Naval Construction Battalion Center, Gulfport, MS 39501

N62613 (MAJ00027), MUE—Commanding Officer, Marine Corps Air Station, (Iwakuni, Japan), FPO Seattle 98764-5001

N62645, EG—Naval Medical Materiel Support Command, Fort Detrick, Frederick, MD 21701-5015

N62649, JY—Naval Supply Depot, Yokosuka (Japan), FPO Seattle 98762

N62651—Director, Navy Publications & Printing Service Detachment Office, Southeast Division, Pensacola, FL 32508

N62653—Director, Navy Publications & Printing Service Office, Southeast Division, Bldg. 1628, Naval Base, Charleston, SC 29408

N62654 (MAJ00019), EFE—Naval Weapons Evaluation Facility, Kirtland AFB, Albuquerque, NM 87117

N62665, JQ—Supervisor of Shipbuilding, Conversion and Repair, USN, Barnes Building—6th Floor, 495 Summer Street, Boston, MA 02210

N62670, 8B—Supervisor of Shipbuilding, Conversion and Repair, USN, Drawer T, Mayport Naval Station, Jacksonville, FL 32228

N62673, 8P—Supervisor of Shipbuilding, Conversion and Repair, USN, Naval Base, Charleston, SC 29408

N62678, 8C—Supervisor of Shipbuilding, Conversion and Repair, USN, P.O. Box 215, Portsmouth, VA 23705

N62688, GW—Naval Station, Naval Base, Norfolk, VA 23511-6002

N62695—Auditor General of the Navy, Naval Audit Services Headquarters, P.O. Box 1206, Falls Church, VA 22041

N62700 (MAJ00023), 4JJ—Navy Publications and Printing Service Detachment Office, Northern Division, Bldg 2A, Great Lakes, IL 60088-5708

N62703 (MAJ00023), 4JA—Navy Publications and Printing Service Detachment Office, Bldg 530, Puget Sound Naval Shipyard, Bremerton, WA 98314

N62705 (MAJ00023), 4JN—Navy Publications and Printing Service Detachment Office, Naval Supply Center, Oakland, CA 94625-5045

N62706, JS—Navy Publications and Printing Service Office, Western Division, Bldg. 154, San Diego, CA 92136-5148

N62735 (MAJ00070), 4LP—Commander, Fleet Activities, (Sasebo, Japan), FPO Seattle 98766-1100

N62741, MB—Commanding Officer, Navy Supply Corps School, Code 60, Athens, GA 30606

N62742, KB—Naval Facilities Engineering Command, Pacific Division, Pearl Harbor, HI 96860

N62745—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Mediterranean (Madrid, Spain), APO New York 09285

N62755, J7—Commanding Officer, Navy Public Works Center, Pearl Harbor, HI 96860-5470

N62766, L1—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts (Guam), FPO San Francisco, CA 96630

N62770 (MAJ00070), LPJ-L—Naval Ship Repair Facility (Subic Bay, Philippines), Box 34, FPO San Francisco 96651-1400

N62786, ER—Supervisor of Shipbuilding, Conversion and Repair, USN, 574 Washington Street, Bath, ME 04530-0998

N62789, L8—Supervisor of Shipbuilding, Conversion and Repair, USN, Groton, CT 06340

N62791, NU—Supervisor of Shipbuilding, Conversion and Repair, USN, Naval Station, Box 119, San Diego, CA 92136-5119

N62793, 4T—Supervisor of Shipbuilding, Conversion and Repair, USN, Newport News, VA 23607-2785

N62794, 7D—Supervisor of Shipbuilding, Conversion and Repair, USN, Flushing & Washington Avenues, Brooklyn, NY 11251-9000

N62795, 7F—Supervisor of Shipbuilding, Conversion and Repair, USN, Pascagoula, MS 39568-2210

N62798, 4X—Supervisor of Shipbuilding, Conversion and Repair, USN, San Francisco, CA 94124-2996

N62799, 7M—Supervisor of Shipbuilding, Conversion and Repair, USN, Seattle, WA 98115-5001

N62808 (MAJ00025), FZO—Public Works Center, Subic Bay (Luzon, Republic of the Philippines), FPO San Francisco 96651-2900

N62832—Naval Activities, Rota, Spain, FPO New York 09540

N62836, L4—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Far East, Yokosuka, Box 61, FPO Seattle, WA 98762

N62841 (MAJ00030), EKA—Commanding Officer, Naval Ordnance Test Unit, Cape Canaveral, FL 32920-162

N62844, KO—Naval Imaging Command, Washington Navy Yard, Washington, DC 20350-2000

N62849 (MAJ00019), EFC—Naval Aviation Engineering Service Unit, Philadelphia, PA 19112-5088

N62852—Naval Electronic System Security Engineering Center, Naval Security Station, 3801 Nebraska Avenue, NW, Washington, DC 20390

N62856 (MAJ00060), LHW-X—Naval Air Facility (Lajes, Azores), APO New York 09406-5000

N62861, KD—Naval Plant Representative Office, General Dynamics, PO Box 2505, Pomona, CA 91766

N62863, K4—Naval Station, Rota, Spain, FPO New York 09540

N62864, L2—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Southwest Pacific (Manila, Philippines), APO San Francisco, CA 96528

N62892 (MAJ00069), 8QA—Commanding Officer, Naval Security Group Activity, Site "B", Card Sound Road, Homestead, FL 33039-6428

R62894 (MAJ00070), 4LA—Commander, U.S. Naval Forces Korea (Yongsan, South Korea), APO San Francisco, CA 96301-0023

N62907, KG—Naval Plant Representative Office, Applied Physics Laboratory, Johns Hopkins Road, Laurel, MD 20810

N62908, 8D—Naval Weapons Engineering Support Activity, Washington Navy Yard, Washington, DC 20374

N62911 (MAJ62980)—Navy Recruiting Area One, Scotia, NY 12302-9462

N62913 (MAJ62980), MLL—Commander, Naval Recruiting Area Three, 451 College Street, PO Box 4887, Macon, GA 31208-4887

N62917 (MAJ62980), MLO-1—Commander, Navy Recruiting Area Seven, 1499 Regal Row, Suite 501, Dallas, TX 75247

N62918 (MAJ62980), MLA—Navy Recruiting Area Eight, 7677 Oakport Street, Suite 650, Oakland, CA 94621-1929

N62921, KH—Naval Plant Representative Office (Special Projects), Lockheed Missiles & Space Co., PO Box 504, Sunnyvale, CA 94088

N62922, 7W—Resident Officer in Charge of Construction, Pacific, Department of the Navy, PO Box 418, San Bruno, CA 94067

N62938, KK—Naval Plant Representative Office, Grumman Aerospace Corp., Bethpage, L.I., NY 11714

N62974, JB—Marine Corps Air Station, Yuma, AZ 85364

N62980, ML*, MQ*, MLZ—Naval Military Personnel Command, Washington, DC 20370

N62990, L3—Supervisor of Shipbuilding, Conversion and Repair, USN, PO Box 26, Sturgeon Bay, WI 54235

N62995, 4H—Naval Air Station, Sigonella (Italy) FPO New York 09523

N63005, Commanding Officer, Administrative Support Unit, Bahrain, FPO New York 09526

N63007 (MAJ00060) LHS—Nuclear Weapons Training Group, Atlantic, Norfolk, VA 23511

N63015, 7Y—Naval Education and Training Support Center, Pacific, Fleet Station PO Bldg, San Diego, CA 92132

N63026, (MAJ00027), MUJ—Marine Corps Air Station (Futenma, Japan), FPO Seattle 98772-5001

N63028, U2—Polaris Missile Facility Atlantic, Charleston, SC 29408

N63032, KS—U.S. Naval Station Keflavik (Iceland), FPO New York 09571

N63038, 8M—U.S. Naval Communication Unit, Cutler, East Machias, ME 04630

N63042, NZ—Naval Air Station, Lemoore, Ca 93245

N63043, 3S—Commanding Officer, Naval Air Station, Meridian, MS 39301

N63051—Commanding Officer, Naval Investigative Service, Southeast Region, Naval Base, Bldg NH 53, Charleston, SC 29408

N63053—Commanding Officer, Naval Investigative Service Office, P.O. Box 6438, New Orleans, LA 70174

N63058 (MAJ00011), LBC—Naval Investigative Service, Northwest Region, Bldg 7, NAVSTA Treasure Island San Francisco, CA 94130

N63073—U.S. Naval Security Group Activity RAF, Edzell UK, FPO New York 09518

N63080, KT—Navy Resale Activity, Chinhae (South Korea), FPO Seattle, WA 98769

N63082—Commanding Officer, Naval Technical Training Center Corry Station (Code 4460), Pensacola, FL 32511

N63110—Commanding Officer, Chief of Naval Air Training (Code N-73), Naval Air Station, Corpus Christi, TX 78419

N63111—Commanding Officer, Cheif of Naval Technical Training, Naval Air Station, Memphis, Millington, TN 38054

N63124—Supervisor of Shipbuilding, Conversion and Repair, USN, New Orleans, LA 70146

N63134, 7R—Fleet Numerical Oceanography Center, Monterey, CA 93940

N63136—Navy Section, U.S. Military Group, Argentina (Buenos Aires), Department of State, Washington, DC 20521

N63143, 8K—Naval Communication Station (Keflavik, Iceland), Box 22, FPO New York 09571

N63152, GZ—Fleet Combat Direction Systems Support Activity, San Diego, CA 92147-5081

N63165, 7U—Navy Regional Data Automation Center, Washington, Washington Navy Yard, Washington, DC 20374

N63182, 8T—Naval Communication Station (Rota, Spain), FPO New York 09539

N63204, KV—Naval Plant Representative Office, Goodyear Aerospace Corp., Akron, OH 44305

N63209 (MAJ00062), L9A—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of New Mexico, Albuquerque, NM 87106

N63210 (MAJ00062), L9B—Commanding Officer, Naval Reserve Officers Training Corps Unit, Iowa State University of Science and Technology, Ames, IA 50011-3010

N63211 (MAJ00062), L9C—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Michigan, Ann Arbor, MI 48109-1085

N63212 (MAJ00062), L9G—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Texas at Austin, Austin, TX 78712

N63213 (MAJ00062), L9J—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of California, Berkeley, CA 94720-0001

N63214 (MAJ00062) L9M—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Colorado, Box 374, Boulder, CO 80309-0374

N63215 (MAJ00062) L9U—Commanding Officer, Naval Reserve Officers Training Corps Unit, Illinois Institute of Technology, 3300 S. Fed
Street, Chicago, IL 60616-3793

N63216 (MAJ00062) L9W—Comm
ing Officer, Naval Reserve Offi
Training Corps Unit, University
Missouri, Columbia, MO 65201

N63217 (MAJ00062) L9Z—Comma
ing Officer, Naval Reserve Offi
Training Corps Unit, Oregon St
University, Corvallis, OR 97331

N63218 (MAJ00062) ROB—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, Northwest
University, Evanston, IL 60201

N63219 (MAJ00062) ROE L99—Co
manding Officer, Naval Reserve
ficers Training Corps Unit, Rice U
versity, P.O. Box 1892, Houston,
7701

N63220 (MAJ00062) ROL—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, UCLA, Me
Gym, Room 123, 405 Milg
Avenue, Los Angeles, CA 90024-1

N63221 (MAJ00062) 8AB—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, PED 101, U
versity Park MC 0654, University
Southern California, Los Angel
CA 90089-0654

N63222 (MAJ00062) ROH—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, University
Kansas, Lawrence, KS 66044

N63223 (MAJ00062) ROK—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, University
Nebraska, Lincoln, NE 68508

N63224 (MAJ00062) 8AD—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, University
Wisconsin, 1610 University Aven
Madison, WI 53705

N63225 (MAJ00062) 8AH—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, Marquette U
versity, Milwaukee, WI 53233

N63226 (MAJ00062) 8AJ—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, University
Minnesota, Minneapolis, MN 554
0108

N63227 (MAJ00062) 8AK—Comma
ing Officer, Naval Reserve Offic
Training Corps Unit, University
Idaho, Moscow, ID 83843-3244

N63228 (MAJ00062) 8AM—Comma
ing Officer, Naval Reserve Offic

Training Corps Unit, Tulane University, New Orleans, LA 70118

N63229 (MAJ00062) 8AN—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Oklahoma, Norman, OK 73019

N63230 (MAJ00062) 8AR—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Notre Dame, Notre Dame, IN 46556-5601

N63231 (MAJ00062) 8AW—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Utah, Salt Lake City, UT 84112-1107

N63232 (MAJ00062) 8AY—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Washington, Seattle, WA 98195

N63234 (MAJ00062) L9Q—Commanding Officer, Naval Reserve Officers Training Corps Unit, 505 East Armory Street, University of Illinois, Champaign, IL 61820-6288

N63235 (MAJ00062) RO5—Commanding Officer, Naval Reserve Officers Training Corps Unit, Purdue University, West Lafayette, IN 47907-0001

N63273, 4S—Fleet Combat Direction Systems Support Activity, Dam Neck, Virginia Beach, VA 23461

N63274, 4F, 4W—Naval Electronic Systems Engineering Center, Vallejo, CA 94592

N63282, KZ—Naval Plant Representative Office, Lockheed Aircraft Corp., Burbank, CA 91503

N63285 (MAJ00011) LBO—Naval Security and Investigative Command, Washington, DC 20388

N63290 (MAJ00062) R00-R01—Commanding Officer, Combat Systems Technical Schools Command, Mare Island, Vallejo, CA 94592

N63291 (MAJ00062) ROF—Commanding Officer, Naval Reserve Officers Training Corps Unit, Barton Hall, Cornell University, Ithaca, NY 14853

N63294 (MAJ00062) 8AV—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Rochester, Rochester, NY 14627

N63295 (MAJ00062) ROM—Commanding Officer, Naval Reserve Officers Training Corps Unit, Rensselaer Polytechnic Institute, Troy, NY 12180-3590

N63296 (MAJ00062) L9F—Commanding Officer, Naval Reserve Officers Training Corps Unit, Auburn University, Auburn, AL 36830

N63299 (MAJ00062) ROA—Commanding Officer, Naval Reserve Officers Training Corps Unit, Duke University, Durham, NC 27706

N63301 (MAJ00062) L9D—Commanding Officer, Naval Reserve Officers Training Corps Unit, Georgia Tech, Atlanta, GA 30313

N63303 (MAJ00062) ROV—Commanding Officer, Naval Reserve Officers Training Corps Unit, College of the Holy Cross, Worcester, MA 01610-2389

N63306 (MAJ00062) 8AS—Commanding Officer, Naval Reserve Officers Training Corps Unit, Miami University, Oxford, OH 45056-1698

N63307 (MAJ00062) RON—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Mississippi, Box 69, University, MS 38677

N63308 (MAJ00062) L9R—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of North Carolina, Chapel Hill, NC 27515

N63309 (MAJ00062) L9Y—Commanding Officer, Naval Reserve Officers Training Corps Unit, The Ohio State University, Columbus, OH 43210-1169

N63310 (MAJ00062) ROP—Commanding Officer, Naval Reserve Officers Training Corps Unit, Wagner Bldg., The Pennsylvania State University, University Park, PA 16802

N63311 (MAJ00062) 8AT—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Pennsylvania, Philadelphia, PA 19104

N63313 (MAJ00062) L9X—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of South Carolina, Columbus, SC 29208

N63315 (MAJ00062) 8AL—Commanding Officer, Naval Reserve Officers Training Corps Unit, Vanderbilt University (Westside Hall), Nashville, TN 37240

N63316 (MAJ00062) ROR—Commanding Officer, Naval Reserve Officers Training Corps Unit, Villanova University, Villanova, PA 19085-1699

N63317 (MAJ00062) L9T—Commanding Officer, Naval Reserve Officers

Training Corps Unit, Maury Hall, University of Virginia, Charlottesville, VA 22903-3194
N63325, 7X—Naval Education & Training Support Center, Atlantic Bldg. Z-86, Naval Station, Norfolk, VA 23511
N63331, LF—Naval Plant Representative Office, United Technologies Corp., Sikorsky Aircraft Div., Stratford, CT 06497
N63339, LL—Navy Resale Activity, Naval Station, Adak (Alaska), FPO Seattle, WA 98791
N63340, LM—Navy Resale Activity, Naval Station, Argentina (Canada), FPO New York 09597
N63341, LN—Naval Resale Activity Det. Commissary Store, Naval Air Station, Chase Field, Beeville, TX 78102
N63344, LR—Navy Commissary Store Region, Naval Station, Charleston, SC 29408
N63345, LS—Navy Resale Activity, Naval Station, Guantanamo Bay (Cuba), FPO New York 09598
N63346, LT—Navy Resale Activity, Naval Station, Keflavik (Iceland), FPO New York 09571
N63348, LV—Navy Resale Activity, Det Commissary Store, Naval Air Station, Kingsville, TX 78364
N63349, LW—Navy Resale Activity, Naval Air Station, Lemoore, CA 93246
N63350, 3L—Navy Resale Activity, COMNAVACT, Dunstable, UK, FPO New York 09510
N63351, LY—Navy Commissary Store Region, Naval Station, Long Beach, CA 90802
N63352, KE—Navy Resale Activity Det Commissary Store, Naval Air Station, Meridian, MS 39301
N63353, MA—Officer in Charge, Navy Resale Activity, Commissary Support Office, Naval Support Activity, Naples (Italy), FPO New York 09521
N63357, ME—Navy Resale Activity, Naval Station, Rota (Spain), FPO New York 09540
N63362, MK—Officer in Charge, Navy Resale Activity, Commissary Support Office (Subic Bay, Philippines), P.O. Box 28, FPO San Francisco 96651
N63365, MN—Navy Resale Activity, Commissary Support Office (Yokosuka, Japan), Box 33, FPO Seattle 98762
N63367, MP—Officer in Charge, Commissary Div., Navy Resale and Services Support Office, Field Support Office, Norfolk, VA 23511
N63369—Military Sealift Command Office, Benelux (Rotterdam, Netherlands), APO New York 09159
N63381 (MAJ00011), LBA—Joint U.S. Military Advisory Group, Thailand, APO San Francisco 96346
N63387, JD—Navy Public Works Center, Naval Base, San Diego, CA 92136
N63394, L6—Naval Ship Weapon Systems Engineering Station, Port Huenueme, CA 93043
N63395, 8L—U.S. Naval Communication Station Thurso (Caithness, UK), FPO New York 09516
N63402, K7—Commanding Officer, Strategic Weapons Facility, Pacific, Bremerton, WA 98383
N63408, HV—Navy Material Transportation Office, Norfolk, VA 23511-6691
N63410, KA—Navy Manpower and Material Analysis Center, Atlantic, Norfolk, VA 23511
N63427, 8F—U.S. Naval Communication Station, Harold E. Holt, Exmouth, Western Australia, FPO San Francisco 96680
N63429, MH—Naval Communication Unit London (UK), FPO New York 10000
N63439, K9—Naval Ophthalmic Support and Training Activity, Yorktown, VA 23690
N63821 (MAJ00039), NSA-B—Officer in Charge, Naval Underwater Systems Center, AUTEC Andros Range Detachment, Andros Island, Bahama Islands, FPO New York 09559
N63886 (MAJ00069), 8QO-1—Naval Security Group Activity (Adak, AK), FPO Seattle 98777
N63891 (MAJ00069), 8QG—Naval Security Group, Northwest, Chesapeake, VA 23322
N64165 (MAJ00062), ROZ—Naval Unit, Lowry Air Force Base, CO 80230
N64181 (MAJ00062), ROW—Department of Naval Science, Texas Maritime Academy, Galveston, TX 77553-1675

N64267, M9—Naval Weapons Station, Seal Beach Detachment, Fleet Analysis Center, Corona Annex, Corona, CA 91720

N64281, 3U, KX—Commanding Officer, Naval Sea Combat Systems Engineering Station, Naval Station, Norfolk, VA 23511

N64356, KF—Commanding Officer, Naval Administrative Command, Armed Forces Staff College, Norfolk, VA 23511-6097

N64980—Officer in Charge, Naval Weapons Facility, Detachment Machrinhanish, UK, FPO New York 09515

N64981—Commanding Officer, Naval Weapons Facility, St. Mawgan UK, FPO New York 09511

N65113, EZ—Navy Public Works Center, Bldg 1A, Great Lakes, IL 60088-5600

N65114—Commanding Officer, Navy Public Works Center, Naval Air Station, Pensacola, FL 32508

N65115 (MAJ00025), FZA—Navy Public Works Center, Box 13 (Yokosuka, Japan), FPO Seattle 98762-3100

N65116, MZ—Officer in Charge, Navy-Marine Corps Appellate Review Activity, Officer of the Judge Advocate General, Washington Navy Yard, Washington, DC 20374-2001

N65117, NJ, MO—Naval Plant Representative Office (Strategic Systems Programs), General Electric Ordnance Systems, 100 Plastics Avenue, Pittsfield, MA 01201

N65146, 7E—Procurement Branch, OP-09B31, Office of the Chief of Naval Operations Support Activity, Washington, DC 20350

65198, 3H—Naval Administrative Unit, 550 First Street, Idaho Falls, ID 83401

65202—Supervisor of Shipbuilding, Conversion and Repair, USN, Box 400, Pearl Harbor, HI 96860

65227, NH—Naval Plant Representative Office, Unisys Corp., Great Neck, L.I., NY 11020

65236, V7—Naval Electronic Systems Engineering Center, 4600 Goer Road, North Charleston, SC 29406

65256 (MAJ31699)—Navy Office of Information, East, 133 East 58th Street, 1st Floor, New York, NY 10022

N65428 (MAJ00018), MDP—Commanding Officer, Naval Hospital (Roosevelt Roads, PR), FPO Miami 34051-8100

N65440, 4V—Officer in Charge, Navy Resale Activity, Exmouth, Western Australia, FPO San Francisco 96680

N65491 (MAJ00018), J5P—Naval Hospital (Subic Bay, Philippines), FPO San Francisco 96652-1600

N65492 (MAJ00018), MCA—Commanding Officer, Naval Hospital, Fiscal & Supply Service, Code 32C, Orlando, FL 32813-5200

N65497, 4U—Commissary Store Division, NAVRESSO, Field Support Office, 2801 "C" Street, SW, Auburn, WA 98001

N65575 (MAJ00018), MCY—Naval Medical Clinic, Seattle, WA 98115

N65576—Navy Space Systems Activity, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009

N65580, M2—Naval Electronic Systems Engineering Center, PO Box 55, Portsmouth, VA 23705

N65584, EW, 3E, KU, 3B—Naval Electronic Systems Engineering Center, PO Box 80337—Building 14, Code 104, San Diego, CA 92138

N65849 (MAJ31699), HXY-Z—Office of Civilian Personnel Management, Southwest Region, San Diego, CA 92188

N65870, M4—Supervisor of Shipbuilding, Conversion and Repair, USN, Long Beach Naval Shipyard, Long Beach, CA 90822

N65886—Commanding Officer, Aviation Depot, Naval Air Station, Jacksonville, FL 32212

N65888, ED Aviation Depot, North Island, San Diego, CA 92135

N65889—Commanding Officer, Aviation Depot, Naval Air Station, Code 56000, Pensacola, FL 32508

N65912, GP—Commanding Officer, Naval Sea Support Center, Atlantic St. Juliens Creek Annex, Portsmouth, VA 23702

N65913, 7L—Naval Sea Support Center, Pacific, San Diego, CA 92138

N65918, FT—Shore Intermediate Maintenance Activity, Naval Station, San Diego, CA 92136-5000

N65926 (MAJ00039), NSA-B—Officer in Charge, Naval Underwater Systems Center Detachment, AUTEC, West Palm Beach Detachment, West Palm Beach, FL 33402

N65928, N3—Naval Training Systems Center, Orlando, FL 32813

N65980—Naval Electronic Systems Engineering Activity, St. Inigoes, MD 20684

N65995, KM—Officer in Charge, Naval Support Activity (Holy Loch, UK), FPO New York 09514

N66001, 7N—Naval Ocean Systems Center, San Diego, CA 92152

N66021, 7G—Commander Fleet Air, Western Pacific (Atsugi, Japan), FPO Seattle, WA 98767

N66022 (MAJ00018), MDW—Naval Dental Clinic, San Diego, CA

N66032, LK—Navy Automatic Data Processing Selection Office, Building 218, Washington Navy Yard, Washington, DC 20374

N66074 (MAJ00062), 8AU—Commanding Officer, Naval Reserve Officers Training Corps Unit, Prairie View A&M University, Prairie View, TX 77445

N66095 (MAJ00018), J5E—Naval Hospital, NAS, Lemoore, CA 93246

N66097 (MAJ00018), MDE—Naval Hospital, Oak Harbor, WA 98278-8800

N66125 (MAJ00070), V5J—Naval Facility (Guam), FPO San Francisco 96630-2903

N66231 (MAJ00072), 9TS—Naval Reserve Readiness Center, Bldg 2711, Naval Training Center, Great Lakes, IL 60088-5707

N66458 (MAJ00065), SOC—Naval Oceanography Command, NAS, Brunswick, ME 04011-5000

N66604 N4—Naval Underwater Systems Center, Newport, RI 02840

N66612 (MAJ00062), L95—Commanding Officer, Naval Reserve Officers Training Corps Unit, The Citadel, Charleston, SC 29409-0770

N66691, 4P—Commanding Officer, Naval Support Activity, Souda Bay, Crete, Greece, FPO New York 09528

N66715, VJ—Commander, Navy Recruiting Command, Washington, DC 22203-1191

N66753 (MAJ00062), ROG—Commanding Officer, Naval Reserve Officers Training Corps Unit, Jacksonville University, Jacksonville, FL 32211

N66754 (MAJ00069), 8QL—Commanding Officer, Naval Security Group Activity (Sabana Seca, PR), FPO Miami 34053

N66809 (MAJ00062), ROV—Commanding Officer, Naval Reserve Officers Training Corps Unit, Savannah State College, Savannah, GA 31404

N66810 (MAJ00062), L9H—Commanding Officer, Naval Reserve Officers Training Corps Unit, Southern University and A&M College, Baton Rouge, LA 70813

N66818 JX—Commanding Officer Naval Medical Command Mid-Atlantic Region, Norfolk, VA 23508-1297

N66833 (MAJ00060), LHL—Commanding Officer, U.S. Naval Station Panama (Rodman, Canal Zone), FPO Miami 34061-1000

N66863 (MAJ00018), MCU-X—Commanding Officer, Naval Biodynamics Laboratory, 13800 Old Gentilly Road, Michout Assembly Facility, New Orleans, LA 70189

N66890, LJ—Naval Station, Mare Island, Supply and Fiscal Code 90, Bldg 851, Vallejo, CA 94592

N66898—Commanding Officer, Naval Medical Clinic, New Orleans, LA 70142

N66957—Director, Navy Publications and Printing Service Det Branch, Southeast Division, Bldg. 2049, NTC Orlando, FL 32813

N66959—Director, Navy Publications and Printing Service Det Office, Southeast Division, P.O. Box 3, NAS Jacksonville, FL 32212

N66965 (MAJ00023), 4JQ—Navy Publishing and Printing Service Det Office, Western Area, Point Mugu, CA 93042-5027

N66972—Commanding Officer, Naval Recruiting District, 5901 S.W. 74th Street, Miami, FL 33143

N67596—Commanding Officer, Naval Recruiting District, 102 W Rector Street, San Antonio, TX 78216

N68011—Commanding Officer, Naval Recruiting District, 8 North Third Street, Sterick Bldg. Memphis, TN 38103

N68047 (MAJ00070), 4LO—Navy Office, Singapore, FPO San Francisco, CA 96699-2100

N68056 JE—Naval Medical Command Southwest Region, San Diego, CA 92134

N68057 VZ--Commanding Officer, Naval Regional Data Automation Center Norfolk, Code 212, Norfolk, VA 23511

N68064 (MAJ00062), ROD—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Florida, Van Fleet Hall, Room 26, Gainesville, FL 32601

N68072 (MAJ00062), L9V—Commanding Officer, Naval Reserve Officers Training Corps Unit, Texas A&M University, College Station, TX 77843

N68084 (MAJ00018), MDJ-M—Commanding Officer (Code 206), Naval Hospital, Charleston, SC 29408-6900

N68086 7S—Naval Hospital, Newport, RI 02841

N68090 (MAJ00018) MDO-9—Naval Hospital, Long Beach, CA 90822-5199

N68092—Naval Medical Command, Northeast Region Great Lakes, IL 60088

N68093 (MAJ00018) MCG-H—Naval Hospital, Camp LeJeune, NC 28542-5008

N68094 V9—Naval Hospital, Camp Pendleton, CA 92055-5008

N68095 JF—Naval Hospital, Boone Road, Bremerton, WA 98312-1898

N68096 (MAJ00018) J50—Commanding Officer, Naval Hospital (Guam), FPO San Francisco 96630-1600

N68097 QA—Naval Medical Command, Northwest Region Oakland, CA 94627

N68101 (MAJ00018) MDT-V—Naval Hospital, 17th Street and Pattison Avenue, Philadelphia, PA 19145-5199

N68139 (MAJ00062) 8AZ—Commanding Officer, Naval Reserve Officers Training Corps Unit, Florida A&M University Tallahassee, FL 32307

N68141 (MAJ00062) L9P—Commanding Officer, Naval Reserve Officers Training Corps Unit, Maine Maritime Academy, Castine, ME 04421-0902

N68166 (MAJ00015) LO1—Naval Technical Intelligence Support Center, 4301 Suitland Road, Washington, DC 20390

N68171 M3—Commanding Officer, Naval Regional Contracting Center, (Naples, Italy) FPO New York 09521

N68175 (MAJ62980) MQA—Navy Recruiting District, New Jersey Parkway Towers, Bldg A, 485 US Route 1, So. Iselin, NJ 08830-3012

N68199—Commanding Officer, Navy Office of Information, Southeast 1459 Peachtree Street, NE—Suite 300, Atlanta, GA 30309

N68200 VM—Director, Navy Office of Information, Southwest, 1114 Commerce Street, Suite 811 Dallas, TX 75242

N68221 7J—Commanding Officer, Naval Personnel Research and Development Center, San Diego, CA 92152

N68248, V6—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Naval Submarine Base, Kings Bay, GA 31547

R68251 (MAJ00070) LPC—Shore Intermediate Maintenanace Activity, Pearl Harbor Box 141, Pearl Harbor, HI 96860

N68292 (MAJ00018) J5A—Naval Hospital, (Yokosuka, Japan) FPO Seattle 98765-1615

N68297 ET—Naval Magazine, Lualualei, Oahu HI 96792-4301

N68303 (MAJ00062) ROC—Commanding Officer, Naval Reserve Officer, Training Corp Unit, State University of New York Maritime College, Fort Schuyler, Bronx, NY 10465-4198

N68306 (MAJ00072) 9TF—Commander, Naval Reserve Readiness Command, Region Six, WNY Bldg 200 Washington, DC 20374-2003

N68307—Commander, Code 431 Naval Reserve Readiness Command Region Ten, New Orleans, LA 70142

N68308 (MAJ00072) 9TQ—Naval Reserve Readiness Command, Region 20, Bldg 1, NAVSTA Treasure Island, San Francisco, CA 94130-5032

N68311, JL—Naval Station, Long Beach, CA 90822

N68322 7Z, Naval Education & Training Program, Management Support Activity, Code SU1 Saufley Field, Pensacola, FL 32509

N68328 (MAJ00072 9TJ—Naval Reserve Readiness Command, Region 22, Bldg 9, Naval Station Seattle, WA 98115-5009

N68330 (MAJ00072) 9TN—Naval Reserve Readiness Command, Region

13, Bldg 1, Code 712, NTC Great Lakes, IL 60088-5026

N68332 9TO-1—Commander, Naval Reserve Readiness Command, Region 18, 301 Navy Drive, Industrial Airport, KS 66031-0031

N68335 4Y—Commanding Officer, Naval Air Engineering Center, Supply Dept., Purchase Division Lakehurst, NJ 08733

N68348 (MAJ00072) 9TG—Commander, Naval Reserve Readiness Command, Region Nine NAS Memphis (76), Bldg E-35 Millington, TN 38054

N68355 (MAJ00062) ROJ—Commanding Officer, Naval Reserve Officers Training Corps Unit, Virginia Military Institute, Lexington, VA 24450-2697

N68356 (MAJ00072) 9TD—Commander, Naval Reserve Readiness Command, Region Seven, Naval Base, Charleston, SC 29408

N68357 (MAJ00072) 9TL—Commander, Naval Reserve Readiness Command, Region Two, Scotia, NY 12302-9465

N68358 (MAJ00072) 9TA—Commander, Naval Reserve Readiness Command, Region Eight, Naval Air Station, Jacksonville, FL 32212

N68359—Commander, Naval Reserve Readiness Command, Region Eleven, Bldg 11, Naval Air Station, Dallas, TX 75211

N68378 KQ—Navy Public Works Center, San Francisco Bay, Oakland, CA 94623

N68391 (MAJ62980) MLB—Navy Recruiting District, Harrisburg, 310 North Second Street, Harrisburg, PA 17101-1304

N68401 (MAJ62980) MLJ—Navy Recruiting District, San Diego Naval Training Center, Bldg 335, San Diego, CA 92133-6800

N68402 (MAJ31699) V8E—Navy Office of Information, New England Branch, 408 Atlantic Avenue, Boston, MA 02210-2203

N68409 (MAJ00018) MDC—Naval Dental Clinic, San Francisco, CA 94130-5030

N68436 KC J6—Naval Submarine Base, Bangor, Code 863, Bremerton, Wa 98315

N68441—Commanding Officer, Naval Dental Clinic, Naval Air Station, Pensacola, FL 32508

N68443 7T—Commanding Offic Naval Dental Clinic, Bremerton, W 98314

N68451 MF—Navy Regional Data Automation Center, Naval Air Statio San Francisco, Alameda, CA 94501

N68470 (MAJ00018) J5J—Naval Hosp tal (Okinawa, Japan), FPO Seattl 98778-1610

N68478 7H—Naval Plant Branch Representative Office, Westinghou Electric Corporation, Oceanic Division, PO Box 1488, Annapolis, MD 21404

N68497—Commanding Officer, Code 40, Naval Administrative Comman Naval Training Center, Orlando, FL 32813

N68499 LX—Director, Naval Council of Personnel Boards, Ballston Center Tower #2, 801 North Randolph Street, Arlington, VA 2220-1989

N68518—Commanding Officer, Naval Reserve Support Office, Interna Supply, Code S43, 4400 Dauphine Street, New Orleans, LA 7014

N68520 7P—Aviation Depot Operations Center, Naval Air Station, Patuxent River, MD 20670

N68525 7Q—Naval Plant Representative Office, General Electric Company, Aircraft Engine Group, 10 Western Avenue, Lynn, MA 01910

N68546 QG—Navy Environmental Health Center, Naval Station, Norfolk, VA 23511

N68547 (MAJ00060) LHQ—Personnel Support Activity, Norfolk, VA 23511-5115

N68561 (MAJ00039) NSE—Navy Management Systems Support Offic Norfolk, VA 23511-6694

N68593 (MAJ00060) LHE—Naval Ocean Processing Facility, Dam Neck VA 23461-5450

N68610 GF—Officer in Charge, Fleet Hospital Support Office, 620 Central Ave., Bldg #5, Alameda, CA 94501-3874

N68646 (MAJ00024) EHJ-K—Naval Sea Systems Command, Automated Data Systems Activity, PO Box 10 Indian Head, MD 20640-0100

N68679 3N—Commanding Officer Naval Plant Representative Office 4800 East River Road, Minneapolis, MN 55421

N68691 JW—Naval Plant Representative Office, (Melbourne, Australia), APO San Francisco 96405

N68692 (MAJ00062) 8AX—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of San Diego/San Diego State University, Alcala Park, San Diego, CA 92110-2496

N68693 JZ—Naval Plant Representative Office, McDonnell Douglas Corp, P.O. Box 516, St. Louis, MO 63166

N68695 (MAJ00060) LHG—Shore Intermediate Maintenance Activity, Naval Reserve Maintenance Facility, Bldg 133, Naval Base, Philadelphia, PA 19112-5066

N68699 (MAJ00062) 8AP—Commanding Officer, Naval Reserve Officers Training Corps Unit, Hampton Roads, 5215 Hampton Blvd., Norfolk, VA 23508-8556

N68707 (MAJ00072) 9TU—Naval Reserve Maintenance Training Facility, Puget Sound, Tacoma, WA

N68710 (MAJ00062) L9K—Commanding Officer, Naval Reserve Officers Training Corps Unit, Virginia Polytechnic Institute and State University, Blacksburg, VA 24061-2306

N68717 (MAJ00062) L9L—Commanding Officer, Naval Reserve Officers Training Corps Unit, Boston University, 116 Bay State Road, Boston, MA 02215

N68725 (MAJ00062) R0Q—Commanding Officer, Naval Reserve Officers Training Corps Unit, University of Arizona, Tucson, AZ 85721

N68726 (MAJ00062) R0T—Commanding Officer, Naval Reserve Officers Training Corps Unit, The George Washington University, Washington, DC 20052

N68727 (MAJ00062) 8AF—Commanding Officer, Naval Reserve Officers Training Corps Unit, Memphis State University, Memphis, TN 38152-0001

N68728 (MAJ00062) 8AQ—Commanding Officer, Naval Reserve Officers Training Corps Unit, Norwich University, Northfield, VT 05663-1097

N68733 (MAJ00030) EKC—Strategic Weapons Facility, Atlantic, Kings Bay, GA 31547-6600

N68742 (MAJ00070) LPA—Naval Base, Seattle, WA 98115-5012

N68790—Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Diego Garcia, FPO San Francisco 96685

N68831 (MAJ00070) LPG—Shore Intermediate Maintenance Activity San Francisco, Bldg 162, NAS, Alameda, CA 94501-5065

N68836 J9—Commanding Officer, Naval Supply Center, Jacksonville, FL 32212

N68857 (MAJ00062) 8AC—Commanding Officer, Naval Reserve Officers Training Corps Unit, Texas Tech University, Lubbock, TX 79409-4559

N68860 KR—Naval Supply Center—Pensacola, Pensacola, FL 32508-6200

N68863 LU—Naval Commercial Communications Office, 4401 Mass Avenue, NW, Washington, DC 20390-5290

N68877 (MAJ00062) RQY—Commanding Officer, Naval Reserve Officers Training Corps Unit, Carnegie Mellon University, Pittsburgh, PA 15213

N68881 (MAJ00062) L9E—Commanding Officer, Naval Reserve Officers Training Corps Unit, Morehouse College, Atlanta, GA 30314

N70092 (MAJ00069) 8QJ—Naval Security Station, 3801 Nebraska Avenue, NW, Washington, DC 20390-8230

N70240 M6—Commanding Officer, Naval Communication Station, San Diego, 937 N. Harbor Drive, San Diego, CA 92132

N70272 8G, ND—Naval Communication Area, Master Station Atlantic, Norfolk, VA 23511-6898

N70273, V3—Naval Radio Station, Jim Creek, Oso, WA 98223

N70278 V4—Naval Communication Station, (Yokosuka, Japan), Box 3, FPO Seattle 98762

N70283 (MAJ00069) 8QE—Commanding Officer, Code 30, Naval Security Group Activity, (Galeta Island, Canal Zone), FPO Miami 34060-9998

N70294 8H—U.S. Naval Communication Area, Master Station MED, (Naples, Italy), FPO New York 09524

N70295 8J—U.S. Naval Communication Station, (Nea Makri, Greece), FPO New York 09525

N70310 N2—Naval Radio Station R, Sugar Grove, WV 26815

M00027, MS*, MSO-9—Headquarters, U.S. Marine Corps, Washington, DC 20380

M00146, MT—Marine Corps Air Station, Cherry Point, NC 28533

M00243, NE—Marine Corps Recruit Depot, San Diego, CA 92140

M00263, MX—Marine Corps Recruit Depot, Parris Island, SC 29905

M00264, MY—Marine Corps Development and Education Command, Quantico, VA 22134

M00318—Marine Corps Air Station, (Kaneohe Bay, Oahu, HI), FPO San Francisco, CA 96628

M00681, NG—Marine Corps Base, Camp Pendleton, Oceanside, CA 92054

M60050, MV—Marine Corps Air Station, El Toro, (Santa Ana), CA 92709

M62204, MW—Marine Corps Logistics Base, Barstow, CA 92311

M62974, NA—Marine Corps Air Station, Yuma, AZ 85364

M67001, NB—Marine Corps Base, Camp Lejeune, NC 28542

M67004, NC—Marine Corps Logistics Base, Albany, GA 31704

M67011, (MAJ00027), MSA—Director, 1st Marine Corps District, Garden City, Long Island, NY 11530

M67013, (MAJ00027), MSC—Director, 4th Marine Corps District, Philadelphia, PA 19112-5072

M67015, (MAJ00027), MSE—Director, 6th Marine Corps District, Atlanta, GA 30303

M67016, (MAJ00027), MSG—Director, 8th Marine Corps District, New Orleans, LA 70113

M67017, (MAJ00027), MSJ—Director, 9th Marine Corps District, Shawnee Mission, KA 66204

M67019 (MAJ00027), MSL—Director, 12th Marine Corps District, San Francisco, CA 94130

M67021, (MAJ00027), MUC—Marine Aircraft Wing 4, New Orleans, 4400 Dauphine Street, New Orleans, LA 70146-9125

M67025—Headquarters, Fleet Marine Force, Pacific, Oahu, FPO San Francisco, CA 96610

M67029, (MAJ00027), MSN—Marine Barracks, Washington, DC 20003

M67030, (MAJ00027), MUP—Marine Corps Security Force Battalion Pacific, NAVSTA Mare Island, Vallejo, CA 94592-5022

M67290, (MAJ00027), MSY—Marine Aviation Training Support Group-90, NATTC, NAS Memphis, Millington, TN 38054-5123

M67351—Marine Detachment, London, APO New York 09510

M67353, (MAJ00027), MSQ—Headquarters Battalion, Marine Corps, Henderson Hall, Arlington, VA 22214

M67354—Post Supply Officer, Headquarters Marine Corps, Navy Annex, Arlington, VA 20380

M67385, (MAJ00027), MUO-1—Camp H.M. Smith, U.S. Marine Corps, Halawa Heights, Oahu, Hawaii 96861

M67391, KY—Marine Corps Camp Det, Atlantic, (Camp Elmore), Norfolk, VA 23511

M67399, NF—Marine Corps Air-Ground Combat Center, Twentynine Palms, CA 92278

M67400, QJ, MUA—Marine Corps Procurement Office, Okinawa, Marine Corps Base, Camp Smedley D. Butler, (Ryuku Island), Southern), FPO Seattle, WA 98773

M67428, JA—Marine Corps Air Bases Western Area, MCAS El Toro, Santa Ana, CA 92709

M67443, LG—Marine Corps Finance Center, Kansas City, MO 64197

M67842, K6—East Coast Commissary Complex, Marine Corps Base, Camp LeJeune, NC 28542

M67853, (MAJ00027), MUR—Marine Corps Security Force Battalion Atlantic, Naval Base, Norfolk, VA 23511-5697

M67854, (MAJ00027), MU6-8—Marine Corps Research, Development and Acquisition Command, Washington, DC

M68479, (MAJ00027), MSU—4th Marine Division (Rein), FMF, USMCR, 4400 Dauphine Street, New Orleans, LA 70146-5400

M68522, (MAJ00027), MSW—Marine Corps Reserve Support Center, Purchasing Department, 16950 El Monte, Overland Park, KS 66211-1408

Department of the Air Force

(C) Denotes a Central Contracting Activity

F01600, 5A—3800 ABW/LGC, Maxwell AFB, AL 36112-5320

F01620, 6K—HQ SSC/PK, Gunter AFS, AL 36114-6343

F02600, 5B—82 FTW/LGC, Williams AFB, AZ 85240-5004

F02601, 5C—836 AD/LGC, Davis-Monthan AFB, AZ 85707-5320

F02604, 5D—832 AD/LGC, Luke AFB, AZ 85309-5320

F02610, SR—AFPRO, Hughes Missile Systems Group, P.O. Box 11337, Emery Park Station Tucson, AZ 85734-1337

F03601, 5E—97 BMW/LGC, Eaker AFB, AR 72317-5320

F03602, 5F—314 TAW/LGC, Little Rock AFB, AR 72076-5320

F04604, 5G—93 BMW/LGC, Castle AFB, CA 95342-5320

F04605, 5H—22 AREFW/LGC, March AFB, CA 92518-5320

F04606, SM—SM-ALC/PM, Sacramento Air Logistics Center, McClellan AFB, CA 95652-5320

F04607, 5J—63 MAW/LGC, Norton AFB, CA 92409-5320

F04609, 5K—831 AD/LGC, George AFB, CA 92394-5320

F04611, QQ—AFFTC/PK (C), Edwards AFB, CA 93523-5320

F04612, 5L—323 FTW/LGC, Mather AFB, CA 95655-5320

F04620, S6—AFPRO, TRW Electronics & Defense Sector, One Space Park, Redondo Beach, CA 90278-1078

F04626, 5M—60 MAW/LGC Travis AFB, CA 94535-5320

F04630, RY—AFPRO, RI Rocketdyne Division, 6633 Canoga Avenue, Canoga Park, CA 91303-2790

F04666, 5N—9 SRW/LGC Beale AFB, CA 95903-5320

F04679, QR—AFPRO, Northrop Corp, One Northrup Avenue, Hawthorne, CA 90250-3296

F04681, QS—AFPRO, RI Corp, Los Angeles Division, PO Box 92098, Los Angeles, CA 90009-2098

04682, QT—AFPRO, Hughes Aircraft Company, PO Box 92463, Los Angeles, CA 90009-2463

04684, QW—4392 AEROSW/LGC, Vandenberg AFB, CA 93437-5320

04688, QV—AFPRO, Aerojet-General Corp, PO Box 15846, Sacramento, CA 95852-1846

04689, RN—1004 Space Support Group, Onizuka AFB, PO Box 3430, Sunnyvale, CA 94088-3430

F04690 CSTC/PM, PO Box 3430, Sunnyvale, CA 94088-3430

F04691, QX—AFPRO, Lockheed Missile & Space Corp, 1111 Lockheed Way, P.O. Box 3504, Sunnyvale, CA 94088-3504

F04693, MG—SSD/PMB, Base Contracts, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009-9260

F04696, RB—AFPRO, RI Anaheim, 3370 Miraloma Ave., Anaheim, CA 92803-3110

F04699, Q5—SM-ALC/PMK, Base Contracts, McClellan AFB, CA 95652-5320

F04700, Q2—AFFTC/PKB, Base Contracts, Edwards AFB, CA 93523-5000

F04701, TB—SSD/PM (C), Space Systems Division, PO Box 92960, Worldway Postal Center, Los Angeles, CA 90009-9260

F04702, HQ AAVS/LGC, Norton AFB, CA 92409-5439

F04703, R8—WSMC/PM (C), Western Space and Missile Center, Vandenberg AFB, CA 93437-6021

F04704, R9—BSD/PK (C), Ballistic Systems Division, Norton AFB, CA 92409-6463

F04705, RT—Det 6, 2762 Logistics Sq. (AFLC), Norton AFB, CA 92409

F04709, S5—Det 42, SM-ALC, Norton AFB, CA 92409-6447

F04710, TC—AFPRO, Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, CA 90846-0001

F04720, RD—AFPRO RI NAAO, OL-AA, 2825 East Avenue P, Palmdale, CA 93550-0319

F04735, 6M—SM-ALC/QL, McClellon AFB, CA 95652-5990

F05600, 5P—LTTC/LGC, Lowry AFB, CO 80230-5320

F05603—HQ Air Force Space Command/PK, Peterson AFB, CO 80914-5001

F05604, SX—3d Space Support Wing/CMB, Peterson AFB, CO 80914-5000

F05611, 5Q—USAFA/LGC, USAF Academy, CO 80840-0189

F05617, RE—AFPRO, Martin Marietta Denver Aerospace, PO Box 179, Denver, CO 80201-0179

F06700, T5—AFPRO, Pratt & Whitney, 400 Main Street, East Hartford, CT 06108-0969

F07603, 5R—436 MAW/LGC, Dover AFB, DE 19902-5320

F08602, 5S—56 TTW/LGC, MacDill AFB, FL 33608-5320

F08606, RG—ESMC/PM (C), Eastern Space & Missile Center, Patrick AFB, FL 32925-5472

F08620, 5T—1 SOW/LGC, Hurlburt Field, FL 32544-5320

F08621, 5U—31 TFW/LGC, Homestead AFB, FL 33039-5320

F08635, RH—MSD/PM (C), Munition Systems Division, Eglin AFB, FL 32542-5000

F08637, 5V—HQ USAF ADWC/LGC, Tyndall AFB, FL 32403-5320

F08650, TJ—ESMC/PMK, Base Contracts, Patrick AFB, FL 32925-5472

F08651, Q3—MSD/PMK, Base Contracts, Eglin AFB, FL 32542-5320

F08675, T2—AFPRO, Pratt & Whitney Aircraft, PO Box 109600, West Palm Beach, FL 33412-9600

F09603, RJ, RR—WR-ALC/PM, Warner Robins Air Logistics Center, Robins AFB, GA 31098-5320

F09604, RU—Det 8, 2762 Logistics Sq (AFLC), Robins AFB, GA 31098

F09607, 5W—347 TFW/LGC, Moody AFB, GA 31699-5320

F09609, 5X—94 CSG/LGC, Dobbins AFB, GA 30069-5320

F09632, RK—AFPRO, Lockheed-GA Co., Marietta, GA 30063-0001

F09634, 5Y—HQ AFRES/LGC, Robins AFB, GA 31098-6001

F09650, Q6—WR-ALC/PMK, Base Contracts, Robins AFB, GA 31098-5320

F10603, 5Z—366 TFW/LGC, Mountain Home AFB, ID 83648-5320

F11602, 6A—CTTC/LGC, Chanute AFB, IL 61868-5320

F11603, 6B—928 TAG/LGC, Chicago O'Hare ARFF, IL 60666-5000

F11623, 6C—375 AAW/LGC, Scott AFB, IL 62225-5320

F11624, X4—2026 CS/PGZ, Scott AFB, IL 62225-60001

F11626, RL—HQ MAC/TRC, Scott AFB, IL 62225-5001

F12617, 6D—305 AREFW/LGC, Grissom AFB, IN 46971-5320

F14614, 6E—384 BMW/LGC, McConnell AFB, KS 67221-5320

F14615, RP—AFPRO, Boeing Military Airplane Company, 3801 South Oliver Street, Wichita, KS 67277-7730

F16600, 6F—23 TFW/LGC, England AFB, LA 71311-5320

F16602, 6G—2BMW/LGC, Barksdale AFB, LA 71110-5320

F17600, 6H—42 BMW/LGC, Loring AFB, ME 0475-5320

F18400, S2—AFPRO, Westinghouse Defense and Electronics Systems Center, PO Box 1693, Baltimore, MD 21203-1693

F18600, RQ—HQ AFSC/PK (C), Andrews AFB, DC 20334-5000

F19617, XO—439 CSG/LGC, Westover AFB, MA 01022-5320

F19620, SQ—AFPRO, Textron Defense Systems, 201 Lowell Street, Wilmington, MA 01887-2941

F19628, RS—ESD/PK (C), Electronic Systems Division, Hanscom AFB, MA 01731-5000

F19630, RV—AFCAC/PK (C), Hanscom AFB, MA 01731-6340

F19650, SH—ESD/PKU, Base Contracts, Hanscom AFB, MA 01731-5320

F20603, 6J—379 BMW/LGC, Wurtsmith AFB, MI 48753-5320

F20613, 6L—410 BMW/LGC, KI Sawyer AFB, MI 49843-5320

F21611, 6N—934 TAG/LGC, Minneapolis-St. Paul IAP, MN 55450-5000

F22600, RC—KTTC/LGC, Keesler AFB, MS 39534-5000

F22608, 6Q—14 FTW/LGC, Columbus AFB, MS 39701-5000

F23606, 6R—351 SMW/LGC, Whiteman AFB, MO 65305-5320

F23608, 6S—442 CSG/LGC, Richards-Gebaur AFB, MO 64030-5000

F24604, 6T—341 SMW/LGC, Malmstrom AFB, MT 59402-5320

F25600, 6U—55 SRW/LGC, Offutt AFB, NE 68113-5320

F25606, TD—3908 CONS/LGC, Offutt AFB, NE 68113-5000

F26600, S4—554 OSW/LGC, Nellis AFB, NV 89191-5320

F27604, R5—509 BMW/LGC, Pease AFB, NH 03803-5320

F28609, 6V—438 MAW/LGC, McGuire AFB, NJ 08641-5320

F29601, RW—Air Force Space Technology Center (AFSC)/PKR, Kirtland AFB, NM 87117-5320

F29605, 6W—27 TFW/LGC, Cannon AFB, NM 88103-5320

F29650, R3—Air Force Space Technology Center (AFSC)/PKB, Kirtland AFB, NM 87117-5320

F29651, 6X—833 AD/LGC, Holloman AFB, NM 88330-5320

F30602, RX—RADC/PK (C), Rome Air Development Center, Griffiss AFB, NY 13441-5700

F30617, 6Y—914 TAG/LGC, Niagara Falls IAP, NY 14304-5320

F30625, ST—AFPRO, Eaton AIL, Eaton Corporation, AIL Div., Commack Road, Deer Park, Long Island, NY 11729-9998

F30635, S3—416 BMW/LGC, Griffiss AFB, NY 13441-5320

F30636, 6Z—380 BMW/LGC, Plattsburgh AFB, NY 12903-5320

F31601, BU—317 TAW/LGC, Pope AFB, NC 28308-5320

F31610, BW—4 TFW/LGC, Seymour Johnson AFB, NC 27531-5320

F32604, BX—57 AD/LGC, Minot AFB, ND 58705-5320

F32605, BY—321 SMW/LGC, Grand Forks AFB, ND 58205-5320

F33600, RZ—WPCC/PMR, PMS, PMT & PMY, Wright-Patterson AFB, OH 45433-5320

F33601, Q7—WPCC/PMK, Base Contracts, Wright-Patterson AFB, OH 45433-5320

F33615, SG—ASD/PMR, Directorate of R&D Contracting, Wright Patterson AFB, OH 45433-6503

F33620, SN—AFPRO RI NAAO, OL-AB, Rockwell International, PO Box 1259, Columbus, OH 43216-1259

F33630, C1—910 TAG/LGC, Youngstown MAP, OH 44473-0910

F33654, SB—AFPRO, General Electric Company, Cincinnati, OH 45215-6303

F33657, SC—ASD/PM (C), Aeronautical Systems Division, Wright-Patterson AFB, OH 45433-6503

F33659, Q8—2803 ABG/PM, Newark AFS, OH 43055-5320

F33661—Air Force Contract Maintenance Center (AFCMC), Wright-Patterson AFB, OH 45433-5000

F33661, S1—AFCMC/CM Wright-Patterson AFB, OH 45433-5000

F33661, MJ—Det 33, AF Contr. Maint. Center, APO New York 09667-6207

F33661, SS—Det 16 AFCMC, APO New York 09633-5000

F33661, S8—AFLC Logistics Support Group—Saudi Arabia, AFCMC Contract Management Division, APO New York 09238-5002

F33661, SV—Det 17 AFCMC, APO New York 09378-5000

F33661, R1—Det 28 AFCMC, APO SF 96214-0006

F33661, SU—Det 19 AFCMC, APO New York 09285-0001

F33661, YE—Det 32 AFCMC, APO New York 09672-0008

F33661, TQ—Det 34 AFCMC, APO New York 09254-5365

F33661, VF—Det 36 AFCMC, APO New York 09240-5000

F33733, J8—HQ AFSC/PLMM, Wright-Patterson AFB, OH 45433-6503

F34600, C2—71 FTW/LGC, Vance AFB, OK 73705-5000

F34601, SD, TA, TG—OC-ALC/PM, Oklahoma City Air Logistics Center, Tinker AFB, OK 73145-5320

F34608, TF—HQ EID/PK, Tinker AFB, OK 73145-6343

F34612, C3—443 MAW/LGC, Altus AFB, OK 73523-5320

F34650, Q9—OC-ALC-PMK, Base Contracts, Tinker AFB, OK 73145-5320

F35610, C4—114 TFTS/LCG, Kingsley Field, Klamath Falls, OR 97601

F36629, C7—911 TAG/LGC, Greater Pittsburgh IAP, PA 15231-5320

F36700, C8—913 TAG/LGC, Willow Grove ARF, PA 19090-5130

F36701, SF—AFPRO, GE Re-Entry Div, P.O. Box 8555, Philadelphia, PA 19101-8555

F38601, C9—363 TFW/LGC, Shaw AFB, SC 29152-5320

F38604, T3—HQ USCENTAF/LGC, Shaw AFB, SC 29152-5002

F38606, CA—354 TFW/LGC, Myrtle Beach AFB, SC 29579-5320

F38610, CR—437 MAW/LGC, Charleston AFB, SC 29404-5320

F39601, CT—44 SMW/LGC, Ellsworth AFB, SD 57706-5320

F40600, Q4—AEDC/PK (C), Arnold Engineering Development Center, Arnold AFB, TN 37389-5000

F40650, D1—AEDC/PKP, Base Contracts, Arnold AFB, TN 37389-5000

F41608, SA, QU—SA-ALC/PM, San Antonio Air Logistics Center, Kelly AFB, TX 78241-5320

F41612, D4—STTC/LGC, Sheppard AFB, TX 76311-5000

F41613, D5—7 BMW/LGC, Carswell AFB, TX 76127-5320

F41614, E2—GTTC/LGC, Goodfellow AFB, TX 76908-5000

F41620, E3—64 FTW/LGC, Reese AFB, TX 79489-5000
F41621, SJ—HQ ESC/LEC, San Antonio, TX 78243-5000
F41622, QY—HSDPKO, Brooks AFB, TX 78235-5320
F41624—HSD/PK (C), Brooks AFB, TX 78235-5320
F41636, ZV—370C Contracting Squadron, Lackland AFB, TX 78236-5000
F41640—HQ AFCOMS/DOC, Kelly AFB, TX 78241-6290
F41650, YA—SA-ALC/PMK, Base Contracts, Kelly AFB, TX 78241-5320
F41652, E5—96 BMW/LGC, Dyess AFB, TX 79607-5320
F41685, E6—47 FTW/LGC, Laughlin AFB, TX 78840-5000
F41687, E9—67 TRW/LGC, Bergstrom AFB, TX 78743-5320
F41689, SK—3303 CS, Randolph AFB, TX 78150-5001
F41691, YO—12 FTW/LGC, Randolph AFB, TX 78150-5000
F41695, SL, TH—AFPRO, General Dynamics, P.O. Box 371, Fort Worth, TX 76101-0371
F41800, T9—San Antonio Contracting Center, Ft Sam Houston AIN, P.O. Box 8218, San Antonio, TX 78208-8218
F41853, WP—AFPRO LTV, LTV Aerospace and Defense Co., P.O. Box 655907, Dallas, TX 75265-5907
F41999—AFNAF Purchasing Office, HQ AFMPC/DPMSK, 9504 IH 35 North, Rm 330, San Antonio, TX 78233
F42600, QP, SY—OO-ALC/PM, Ogden Air Logistics Center, Hill AFB, UT 84056-5320
F42650, R2—OO-ALC/PMK, Base Contracts, Hill AFB, UT 84056-5320
F42651, R6—AFPRO, Morton Thiokol Corp, PO Box 524/MS Z-10, Brigham City, UT 84302-0524
F44600, F3—1 TFW/LGC Langley AFB, VA 23665-5320
F4450, Q1—4400 CONS/LGCN (C), Langley AFB, VA 23665-5000
F45603, F5—62 MAW/LGC McChord AFB, WA 98438-5320
F45613, F8—92 BMW/LGC, Fairchild AFB, WA 99011-5320
F45632, SP—AFPRO, The Boeing Company, PO Box 3707, Seattle, WA 98124-3707
F47606, G7—440 TAW/LGC, Gen. Billy Mitchell Field, 300 College Ave., Milwaukee, WI 53207-5000
F48608, G9—90 SMW/LGC, F.E. Warren AFB, WY 82001-5320
F49620, SE—AFOSR/PK (C), AF Office of Scientific Research, Bolling AFB, DC 20332-6448
F49642, J1—1100 CNS/CN (AFDW), Andrews AFB, DC 20331-5320
F61040, M1—1605 MASW/LGC, APO New York 09406-5320
F61051—USDAO, American Embassy—Brussels, APO New York 09667
F61060—USDAO, American Embassy—Sofia, APO New York 09757
F61080—USDAO, American Consulate General—Prague, APO New York 09757
F61100—USDAO, American Embassy—Copenhagen, APO New York 09170
F61101, T1—3d Space Support Wing/Det 1, APO New York 09170-5000
F61121, RF—USAFE Contracting Office, OL A DET 4, 7000 CONS/LGC APO New York 09193-5320
F61130—USDAO, American Embassy—Helsinki, APO New York 09664
F61171—USDAO, American Embassy—Athens, APO New York 09223
F61173, N1—USAFE Contracting Region—Greece, Det 7, 7000 CONS/LGC, APO New York 09223-5320
F61180—USDAO, American Consulate General—Budapest, APO New York 09757
F61210—USDAO, American Embassy—Rome, APO New York 09794
F61211, N9—USAFE Contracting Region—Italy, Det 6, 7000 CONS/LGC, APO New York 09293-5320
F61214, U9—USAFE Contracting Office, OL-A Det 6, 7000 CONS/LGC, APO New York 09240-5320
F61220, BZ—AFLC/SCE-PM, Support Center Europe, APO New York 09240-5320
F61250, TP—USAFE Contracting Office, OL-B Det 6, 7000 CONS/LGC, APO New York 09694-5320
F61256—USAFE Contracting Office, OL-C DET 6, 7000 CONS/LGC, APO New York 09161-5320
F61260—USDAO, American Embassy—The Hague, APO New York 09159

F61264—USAFE Contracting Office, OL-B DET 10, 7000 CONS/LGC, APO New York 09669-5320

F61270—USDAO, American Embassy—Oslo, APO New York 09085

F61271, T8—USAFE Contracting Office OL-A Det 2, 7000 CONS/LGC, APO New York 09085-5320

F61280—USDAO, American Consulate General—Belgrade, APO New York 09757

F61290—USDAO, American Embassy—Lisbon, APO New York 09678

F61301—USDAO, American Embassy—Bucharest, APO New York 09757

F61308, W3—USAFE Contracting Region—Spain, Det 5, 7000 CONS/LGC, APO New York 09283-5320

F61310—USDAO, American Embassy—Madrid, APO New York 09285

F61354, W8—7241 ABG/LGC, APO New York 09224-5320

F61355, T4—HQ TUSLOG/LGC, APO New York 09254-5320

F61358, W9—39 TACG/LGC, APO New York 09289-5320

F61503, UC—435 TAW/LGC, APO New York 09057-5320

F61504, T6—7350 ABG/LGC, APO New York 09611-5320

F61517, UF—USAFE Contracting Region—Eifel, Det 3, 7000 CONS/LGC, APO New York 09132-5320

F61519, R4—USAFE Contracting Region—Mosel, Det 10, 7000 CONS/LGC, APO New York 09109-5320

F61521, UH—USAFE Contracting Office—Rhineland Pfalz, Det 2, 7000 CONS/LGC, APO New York 09012-5320

F61527—USAFE Contracting Office, OL-C Det 10, 7000 CONS/LGC, APO New York 09027-5320

F61546, UJ—USAFE Contracting Center, Det 1, 7000 CONS/LGC, APO New York 09633-5320

F61560, 4C—AFLC Logistics Support Group—Europe, APO New York 09012

F61700, TM—USAFE Contracting Office, OL-A Det 9, 7000 CONS/LGC, APO New York 09150-5320

F61708, UK—USAFE Contracting Region—Thames Valley, Det 9, 7000 CONS/LGC, APO New York 09194-5320

F61712, UM—USAFE Contracting Office, OL-B Det 4, 7000 CONS/LGC, APO New York 09755-5320

F61730, UQ—USAFE Contracting Office, OL-C Det 4, 7000 CONS/LGC, APO New York 09238-5320

F61775, UV—USAFE Contracting Region—UK North, Det 4, 7000 CONS/LGC, APO New York 09179-5320

F61815, T7—USAFE Contracting Office OL-A Det 10, 7000 CONS/LGC, APO New York 09292-5320

F61817, UW—USAFE Contracting Office, OL-A Det 5, 7000 CONS/LGC, APO New York 09286-5320

F61910, WJ—USAFE Contracting Office, OL-A Det 3, 7000 CONS/LGC, APO New York 09188-5320

F62032, 4D—HQ USMTM/SAS-LGC, APO New York 09616-5320

F62321, RA—313 AD Contracting Center/LGC, APO SF 96239-5320

F62509, QZ—432 TFW Base Contracting Division/LGC, APO SF 96519-5000

F62562, SW—475 ABW Contracting Center/LGC, APO SF 96328-5320

F62600—5 DSCS/LGC, APO SF 96287-5000

F63197, UX—USAFE Contracting Office, OL-A Det 7, 7000 CONS/LGC, APO New York 09291-5320

F64133, S9—43 BMW/LGC, APO SF 96334-5320

F64605, TN—15 ABW Contracting Center/LGC, Hickam AFB, HI 96853-5320

F64608—Communications/ADPE Branch, 15 ABW Contracting Center, Hickam AFB, HI 96853-5320

F64620, SZ—HQ PACAF/LGC, Hickam AFB, HI 96853-5001

F64719, TK—13 AF Contracting Center/LGC APO SF 96274-5320

F65501, WF—Det 2, 5000 CONS/LGC, Elmendorf AFB, AK 99506-5001

F65503, WH—Det 1, 5000 CONS/LGC, Eielson AFB, AK 99702-5320

F65517, QN—HQ AAC/LGC, Elmendorf AFB, AK 99506-5001

F66501, R7—USAFSO/LGC, APO Miami 34001-5320

Defense Logistics Agency

DLAHOO, YK—DLA ADP/Telecommunications Contracting Office, Cameron Station, Alexandria, VA 22304-6100

DLA002, TS—Defense Industrial Plant Equipment Center, Defense Depot Memphis, Memphis, TN 38114-5297

DLA003, TT—Defense Depot Ogden, Ogden, UT 84407-5000

DLA005, TV—Defense Depot Tracy, Tracy, CA 95376-5000

DLA100, TW—Defense Personnel Support Center, Directorate of Clothing & Textiles, 2800 South 20th Street, Philadelphia, PA 19101-8419

DLA120, TW—Defense Personnel Support Center, Directorate of Medical Materiel, 2800 South 20th Street, Philadelphia, PA 19101-8419

DLA13H, UE—Defense Personnel Support Center, Directorate of Subsistence, 2800 South 20th Street, Philadelphia, PA 19101-8419

DLA132, U8—Defense Subsistence Office, Kansas City, 601 E. 12th Street, Room 1768, Kansas City, MO 64106

DLA135, W4—Defense Subsistence Office, New Orleans, 4400 Dauphine Street, New Orleans, LA 70146

DLA136, W5—Defense Subsistence Office, Cheatham, Cheatham Annex, Bldg 113, Williamsburg, VA 23185

DLA137, W6—Defense Subsistence Region, Pacific, 2155 Mariner Square Loop, Alameda, CA 94501

DLA139, U6—Defense Subsistence Region, Europe, APO New York, NY 09052

DLA140, W7—Defense Personnel Support Center, (Installation Support), 2800 South 20th Street, Philadelphia, PA 19101-8419

DLA200, X1—Defense Reutilization and Marketing Service, Federal Center, Battle Creek, MI 49016-3092

DLA400, TY—Defense General Supply Center, Richmond, VA 23297-5000

DLA410, XH—Defense General Supply Center, Base Support Branch, Richmond, VA 23297-5000

DLA420, XK—Defense General Supply Center, Educational Supplies Branch, Richmond, VA 23297-5000

DLA500, TZ—Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, PA 19111-5096

DLA600, UA—Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22304-6160

DLA700, UB—Defense Construction Supply Center, Columbus, OH 43216-5000

DLA710, YL—Defense Construction Supply Center, Commercial Services & Supplies Branch, Contracting Division II, Columbus, OH 43216-5000

DLA720, YM—Defense Construction Supply Center, Wood Products Branch, Contracting Division I, Columbus, OH 43216-5000

DLA8AC, UG—DCASMA, Santa Ana, 34 Civic Center Plaza, P.O. Box C, 12700, Santa Ana, CA 92712-2700

DLA8AG, Z3—DCASPRO, Aero, Route 3, Box 9, Lake City, FL 32055-8705

DLA8AL, Y1—DCASMA, Atlanta, 805 Walker Street, Marietta, GA 30060-2789

DLA8AM, YQ—DCASPRO McDonnell Douglas, PO Box 600, Mailstop 12, Titusville, FL 32781-0600

DLA8AT, UL—DCASR, Atlanta, 805 Walker Street, Marietta, GA 30060-2789

DLA8BA, UN—DCASMA, Birmingham, 2121 8th Avenue North, Birmingham, AL 35203-2376

DLA8BC, UP—DCASMA, Bridgeport, Lordship Blvd, Stratford, CT 06497-5000

DLA8BL, Y4—DCASPRO AVCO Lycoming Division, 550 South Main Street, Stratford, CT 06497-7554

DLA8BM, UR—DCASMA, Baltimore, 300 East Joppa Road, Towson, MD 21204-3099

DLA8BN, US—DCASPRO, AT&T Technologies, Inc., 204 Graham Hopedale Road, Burlington, NC 27215-2941

DLA8BP, UT—DCASR, Boston, 495 Summer Street, Boston, MA 02210-2184

DLA8BS, Y3—DCASMA, Boston, 495 Summer Street, Boston, MA 02210-2184

DLA8BT, UU—DCASPRO, Bendix Corp., Route 46, Teterboro, NJ 07068-1173

DLA8BU, XC—DCASMA Buffalo, 1103 Federal Building, 111 W. Huron Street, Buffalo, NY 14202-2392

DLA8BV, YT—DCASPRO, General Electric, Lakeside Avenue, Burlington, VT 05401-4984

DLA8CD, UZ—DCASMA, Cedar Rapids, 1231 Park Place, NE, Cedar Rapids, IA 52402-1251
DLA8CH, UY—DSCASR, Chicago, O'Hare International Airport, P.O. Box 66475, Chicago, IL 60666-0475
DLA8CL, VB—DCASR, Cleveland, J. Celebrezze Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199-2064
DLA8CN, Y5—DCASMA, Cleveland, J. Celebrezze Federal Bldg., 1240 East Ninth St, Cleveland, OH 44199-2064
DLA8CO, X6—DCASPRO, Goodyear Aerospace, c/o Goodyear Aerospace Corp., 1210 Massillon Road, Akron, OH 44306-4136
DLA8CS, VE—DCASPRO, General Dynamics, 5001 Kearny Villa Road, P.O. Box 80847, San Diego, CA 92138-0847
DLA8DA, VG—DCASR, Dallas, 1200 Main Street, Dallas, TX 75202-4399
DLA8DB, 27—DCASMA, Dallas, P.O. Box 50500, Dallas, TX 75250-5050
DLA8DC,VH—DCASMA, San Diego, Bldg. 4, AF Plant 19, 4297 Pacific Coast Highway, San Diego, CA 92110-3289
DLA8DD, U4—DCAPRO, Rockwell International Corporation, 3200 E Renner Rd, Richardson, TX 75081-6209
DLA8DM, Y7—DCASMA, Detroit, McNamara Federal Bldg., 477 Michigan Avenue, Detroit, MI 48226-2506
DLA8DN, VK—DCASMA, Denver, 750 W Hampden Ave., Suite 250, Englewood, CO 80110-2199
DLA8DP, VL—DCASMA, Dayton, c/o Defense Electronics Supply Center, Bldg. 1, Dayton, OH 45444-5300
DLA8EC, YP—DCASMA, Chicago, O'Hare International Airport, 6400 N. Manneheim Road, P.O. Box 66911, Chicago, IL 60666-0911
DLA8FL, VN—DCASPRO, ITT, Defense Group, 500 Washington Ave., Nutley, NJ 07110-3698
DLA8FS, VR—DCASPRO, FMC, 333 Brokaw Rd, P.O. Box 367, San Jose, CA 95103-0367
DLA8FT, Y2—DCASPRO, Ford Newport Beach, Admin Bldg, Rm 313, Ford Road, Newport Beach, CA 92660-1400
DLA8GD, YB—DCASPRO, Gould, 18901 Euclid Ave, Cleveland, OH 44117-1388
DLA8GL, VV—DCASPRO, General Electric (27753), 1100 Western Ave, Lynn, MA 01910-0001
DLA8GM, VW—DCASMA, Grand Rapids, Riverview Center Bldg., 678 Front Street, N.W., Grand Rapids, MI 49504-5352
DLA8GN, VX—DCASMA, Garden City, 605 Stewart Avenue, Garden City, NY 11530-4761
DLA8HB,WA—DCASPRO, Hayes Birmingham, Hayes International Corporation, P.O. Box 2583, Birmingham, AL 35202-2583
DLA8HC, WB—DCASMA, Hartford, 96 Murphy Road, Hartford, CT 06114-2173
DLA8HD, WC—DCASPRO, Singer, 25 Continental Dr, Wayne, NJ 07424-0400
DLA8HE, Z2—DCASPRO, Hayes (Dothan), Napier Field, Dothan, AL 36303-9236
DLA8HM, WD—DCASPRO, Honeywell, 2701 Fourth Ave S, Minneapolis, MN 54408-1792
DLA8HR, Z9—(DCASMA-SF) Hawaii Residency, Federal Building, Room 4115, 300 Ala Moana Blvd., Honolulu, HI 96813-4908
DLA8HS, XT—DCASPRO, Hamilton Standard, Bradley Field, Windsor Locks, CT 06096-0463
DLA8HU, XG—DCASPRO, Hughes Aircraft Company, Bldg. 600, Mail Station B104, P.O. Box 3310, Fullerton, CA 92633-2177
DLA8JJ, WG—DSCASMA, Indianapolis, Building 1, Fort Benjamin Harrison, Indianapolis, IN 46249-5701
DLA8JK, Z6—DCASPRO, GMC Detroit Diesel Allison, 2001 S Tibbs Ave, Indianapolis, IN 46241-4812
DLA8JL, X2—DCASPRO, Magnavox, 1616 Directors Row, Fort Wayne, IN 46808-1286
DLA8KA, XY—DCASPRO, Kaman Aerospace Corp., Old Windsor Road, Bloomfield, CT 06002-0002
DLA8LA, WL—DCASR, Los Angeles, 222 N Sepulveda Blvd, El Segundo, CA 90245-4320
DLA8LB, WM—DCASPRO, Litton, 5490 A Canoga Ave, Woodland Hills, CA 91367-6619
DLA8LC, Y8—DCASMA, El Segundo, 222 N Sepulveda Blvd, El Segundo, CA 90245-4320

DLA8LT, WN—DCASPRO, E-Systems, Inc., P.O. Box 379, Greenville, TX 75401-0379

DLA8MB, V1—DCASPRO, Harris Melbourne, 1465 Clearmont Street, N.E., Palm Bay, Florida 32905-4093

DLA8MC, V2—DCASPRO, Rockwell International-MSD, P.O. Box 1367, Duluth, GA 30136-4099

DLA8MF, QF—DCASMA, San Juan, P.O. Box 34167, Ft. Buchanan, PR 00934

DLA8MH, X9—DCASPRO, McDonnell Douglas, Astronautics Co., 5301 Bolsa Avenue, Huntington Beach, CA 92647-2048

DLA8MM, XL—DCASPRO, Martin Marietta, Orlando Aerospace, P.O. Box 5837, Mail Point 49, Orlando, FL 32855-5837

DLA8MN, WQ—DCASMA, Twin Cities, 2305 Ford Parkway, St. Paul, MN 55116-1893

DLA8MW, WR—DCASMA, Milwaukee, S. Reuss Federal Bldg, Suite 340, 310 W. Wisconsin Ave., Milwaukee, WI 53203-2216

DLA8NC, WV—DCASMA, Ottawa, Journal Tower South, 14th Floor, 365 Laurier Ave. West, Ottawa, ONT, Canada K1A 0S5

DLA8NF, WW—DCASMA, Orlando, 3555 Maguire Blvd., Orlando, FL 32803-3276

DLA8NH, YS—DCASPRO, Sanders Associates, Daniel Webster Highway S, P.O. Box 868, Nashua, NH 03061-0868

DLA8NJ, WT—DCASMA, Springfield, 240 Route 22, Springfield, NJ 07081-3170

DLA8NL, Z1—DCASMA, New Orleans, 13800 Old Gentilly Highway, Bldg. 350, P.O. Box 29283, New Orleans, LA 70189-2218

DLA8NM, YR—DCASPRO, IBM, Route 17C, Owego, NY 13827-1298

DLA8NN, YN—DCASPRO, Harris, 6801 Jericho Turnpike, Syosset, NY 11791-4465

DLA8NY, WU—DCASR, New York, 201 Varick Street, New York, NY 10014-4811

DLA8NZ, Y9—DCASMA, New York, 201 Varick Street, New York, NY 10041-4811

DLA8PA, WY—DCASMA, Phoenix, The Monroe School, 215 N. 7th St., Phoenix, AZ 85034-1012

DLA8PH, XA—DCASR, Philadelphia, P.O. Box 7478, Philadelphia, PA 19101-7478

DLA8PL, X3—DCASMA, Philadelphia, P.O. Box 7699, Philadelphia, PA 19101-7699

DLA8PM, XB—DCASPRO, IBM, Manassas, 9500 Godwin Drive, Manassas, VA 22110-4198

DLA8PP, XD—DCASMA, Pittsburgh, 1612 S. Federal Bldg., 1000 Liberty Ave., Pittsburgh, PA 15222-4190

DLA8PR, X7—DCASPRO, RCA, Marne Highway and Borton Landing Road, Moorestown, NJ 08057-3095

DLA8PW, XE—DCASPRO, Ford Aerospace, 3939 Fabian Way, Palo Alto, CA 94303-4606

DLA8RB, XF—DCASPRO, Raytheon, Spencer Laboratory, Wayside Ave., Burlington, MA 01803-4608

DLA8RP, XM—DCASMA, Reading, 45 S. Front Street, Reading, PA 19602-1094

DLA8SA, XN—DCASMA, San Antonio, 615 E. Houston, P.O. Box 1040, San Antonio, TX 78294-1040

DLA8SD, X8—DCASPRO, Sundstrand, P.O. Box 5066, Rockford, IL 61125-0066

DLA8SF, XR—DCASMA, San Francisco, 1250 Bayhill Drive, San Bruno, CA 94066-3070

DLA8SK , XQ—DCASPRO, Singer-Link, Kirtland Plant, Binghamton, NY 13902-1237

DLA8SL, XS—DCASCR, St. Louis, 1136 Washington Avenue, St. Louis, MO 63101-1194

DLA8SN, XU—DCASMA, Syracuse, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Syracuse, NY 13260-0115

DLA8ST, X5—DCASMA, St. Louis, 405 S. Tucker Blvd., Room 5101, St. Louis, MO 63102-1181

DLA8SW, XW—DCASMA, Seattle, Bldg. 5D, Naval Station, Seattle, WA 98115-5010

DLA8SY, XX—DCASPRO, GTE Communications Systems Corp., 360 First Ave., Needham, MA 02194-9123

DLA8TC, YF—DCASPRO, Teledyne CAE, 1330 Laskey Rd., P.O. Box 6971, Toledo, OH 43612-0971

DLA8TE, XZ—DCASPRO, Texas Instruments, Inc., P.O. Box 660246, MS 256, Dallas, TX 75226-0246

DLA8TO, U3—DCASPRO, McDonnell Douglas/ Rockwell, 2000 North Memorial Dr., Tulsa, OK 74115-3833

DLA8VC, YC—DCASMA, Van Nuys, 6230 Van Nuys Blvd., Van Nuys, CA 91401-2713

DLA8WK, YD—DCASMA, Wichita, 435 Southwater, Wichita, KS 67202-3617

DLA8WR, YH—DCASPRO, Williams International, 2280 West Maple Rd., Walled Lake, MI 48088-0200

DLA8WS, YG—DCASPRO, Westinghouse, 401 E. Hendy Avenue, P.O. Box 499 MS 11-7, Sunnyvale, CA 94088-3499

DLA8WT, Z8—DCASPRO, Grumman, P.O. Drawer 1137, Stuart, FL 33495-1137

DLA8WU, VA—DCASPRO, Northrop, 600 Hicks Rd., Rolling Meadows, IL 60008-1098

DLA8WV, VD—DCASPRO, AM General, 701 W. Chippewa Ave., South Bend, IN 46680-2841

DLA900, UD—Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444-5000

DLA910—Defense Electronics Supply Center, Base Contracting Section, 1507 Wilmington Pike, Dayton, OH 45444-5000

Defense Communications Agency

DLA100, GO—Defense Communications Agency, Attn.: Contract Management Division, Code 680, Washington, DC 20305-2000

DCA200—DCA/DECCO, Code D510, Bldg. 3189, Scott AFB, IL 62225-8300

DCA300—DECCO-PAC, 1154 Bishop Street, Honolulu, HI 96813

DCA400—DECCO-EUR, APO New York, NY 09136-5000

Defense Mapping Agency

DMA600, BQ—Hqtrs., Defense Mapping Agency, 8301 Greensboro Drive, Suite 800, McLean, VA 22102-3672

DMA650—Defense Mapping Agency, Inter-American Geodedic Survey, Ft. Sam Houston, TX 78234-5000

DMA700, 8Y—Defense Mapping Agency Aerospace Center, 3200 South Second Street, St. Louis, MO 63118-3399

DMA800, YZ—Defense Mapping Agency, Hydrographic/Topographic Center, Attn.: LOCC4, 6500 Brooks Lane, Washington, DC 20315-0030

Defense Nuclear Agency

DNA001, 8Z—Defense Nuclear Agency, Attn.: OAAM, Washington, DC 20305-1000

DNA002, ON—Hqtrs. Field Command, Defense Nuclear Agency, Attn.: Office of Procurement, Kirtland AFB, NM 87115-5000

DNA004—Defense Nuclear Agency, Armed Forces Radiobiology Research Institute, Bethesda, MD 20814-5145

Miscellaneous Defense Activities

MDA902—American Forces Radio and Television Service, 10888 La Tuna Canyon Road, Sun Valley, CA 91352-2058

MDA903, F7—Defense Supply Service—Washington, Room 1D245, The Pentagon, Washington, DC 20310-5200

MDA904, BE—Maryland Procurement Office, Attn.: P&P Directorate, 9800 Savage Road, Ft. George G. Meade, MD 20755-6000

MDA905, B4—Uniformed Services, University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, MD 20814-4799

MDA906—Office for the Civilian Health & Medical Program of the Uniformed Services (CHAMPUS), Aurora, CO 80045-6900

MDA907—P&C Office, Menwith Hill Station, APO, New York, NY 09210

MDA908, 2X—Virginia Contracting Activity, P.O. Box 46563, Washington, DC 20050-6563

MDA946—Procurement & Contracting Office, Attn.: DOD/OSD/WHS, Rm 1D198, The Pentagon, Washington, DC 20310-1155

MDA970—Defense Test & Evaluation Support Agency, 4308 Carlisle N.E., Suite 101, Albuquerque, NM 87107

MDA972, WS—DARPA Contract Management Office, 1400 Wilson Blvd., Arlington, VA 22209-2309

On Site Inpection Agency

OSIA01—On-site Inspection Agency, Attn.: Acquisition Management, Washington/Dulles International Airport, Washington, DC 20041-0498

Strategic Defense Initiative Organization

SDI084—Strategic Defense Initiative Organization, Attn.: SDIO/CP, Washington, DC 20301-7100

[54 FR 36773, Sept. 5, 1989, as amended at 54 FR 53621, Dec. 29, 1989]

APPENDIX O—P [RESERVED]

Appendix Q—Department of Defense Foreign Tax Relief Program

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APPENDIX Q

DEPARTMENT OF DEFENSE FOREIGN TAX RELIEF PROGRAM

Part 1—Department of Defense Directive 5100.64

Q-100 Reprint of DoD Directive 5100.64.

June 12, 1979
NUMBER 5100.64

GC, DoD

Department of Defense Directive

SUBJECT DoD Foreign Tax Relief Program

References:
(a) DoD Directive 5100.64, "Department of Defense Foreign Tax Relief Program," August 12, 1970 (hereby canceled)
(b) DoD Instruction 2050.1, "Delegated Approval Authority to Negotiate and Conclude International Agreements," July 6, 1977
(c) DoD Directive 5000.35, "Defense Acquisition Regulatory System," March 8, 1978
(d) DoD Directive 5525.1, "Status of Forces Policies and Information," January 20, 1966

A. REISSUANCE AND PURPOSE

This Directive (1) reissues reference (a), without substantive change, to correct superseded references; and (2) defines the tax relief policy of the Department of Defense, designates the organizational element which has continuing responsibility for the overall direction of the DoD Foreign Tax Relief Program, delineates the responsibilities of other organizational elements to implement and monitor the program, and requires the preparation and maintenance of specified foreign country tax law studies in order to facilitate the institution of statistical reporting procedures.

B. APPLICABILITY AND SCOPE

1. The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified Command, and the Defense

Agencies (hereafter referred to as "DoD Components").

2. The policy set forth in this Directive applies to:

a. Military functions expenditures by the Department of Defense, and

b. Expenditures by nonappropriated fund activities of the Department of Defense that are subject to taxes imposed by:

(1) Foreign countries in which U.S. military forces are regularly stationed (other than attache and other military personnel assigned to a U.S. diplomatic mission); and

(2) Any other foreign country in which all or most U.S. defense activities, in a collective sense, are conducted in the interest of the common defense or otherwise significantly improve the military security of that country.

3. The policy set forth in this Directive also applies to Military Assistance Program (MAP) expenditures in all countries.

C. Definitions

1. Regardless of how a charge is denominated in foreign law or regulation, the words "tax" and "taxes" include all direct or indirect foreign customs duties, import and export taxes, excises, fees and other charges imposed at the national, local or intermediate level of a foreign country other than charges for services rendered or for other consideration received.

2. For example, taxes include but are not limited to purchase tax, sales tax, use tax, gross receipts tax, stamp tax, transfer tax, transaction tax, turnover tax, value added tax, service tax, trade tax, business tax, license tax, transportation tax, circulation tax, luxury tax, possession tax, production tax, registration tax, consumption tax, gasoline tax, real property tax, personal property tax, and gross income tax.

3. The word "relief" includes any method, technique, or procedure by which the ultimate economic burden of a tax on DoD funds may be avoided or otherwise remedied, such as exemption, refund, or drawback.

D. Policy

It is the policy of the Department of Defense to secure, to the maximum extent practicable, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would, in the absence of such relief, be borne by funds appropriated or allocated to the Department of Defense (including MAP appropriations) or under the control of its nonappropriated fund activities. In those cases in which the total economic burden of a tax not readily identifiable in the normal course of business is so small that it may be considered a *de minimis* matter, or in which the administrative burden of securing effective relief from a tax in a particular instance would be out of proportion to the amount of the relief obtained, tax relief shall be considered impracticable.

E. Responsibilities

1. The *General Counsel of the Department of Defense* shall:

a. Provide overall supervision and direction of the DoD Foreign Tax Relief Program.

b. Resolve any significant issues relating to the program.

c. Designate those countries that come within subparagraph B.2.b.(2) of this Directive.

d. Direct the preparation of country tax law studies for countries not within the scope of subsection B.2. of this Directive.

e. Designate the DoD member of the Inter-Agency Committee on Foreign Tax Relief, established by the Department of State.

2. The *Assistant Secretary of Defense (International Security Affairs)* shall monitor the negotiation and conclusion of international agreements subject to the Secretary's approval authority under DoD Instruction 2050.1 (reference (b)), to ensure that such agreements are compatible with the policy set forth in this Directive and any implementing guidance concerning that policy issued by the General Counsel of the Department of Defense.

3. The *Chairman, Defense Acquisition Regulatory Council*, shall coordinate with the General Counsel of the Department of Defense before the issuance, amendment, or revision of any portion of the Defense Acquisition Regulatory System (or regulation, directive, circular, or other publication within the scope of DoD Directive 5000.35 (reference (c)) that pertains to the implementation of the DoD Foreign Tax Relief Program.

4. The *Assistant Secretary of Defense (Comptroller)* shall perform such fiscal functions as may be required to implement the DoD Foreign Tax Relief Program, including advice and assistance in the institution of procedures for collecting data, compiling reports, and performing internal audits.

5. The *Secretary of each of the Military Departments* and the *Director of each of the Defense Agencies* shall issue instructions or regulations that charge a single office within the respective Military Department or Defense Agency (referred to as the "Cognizant Office") with continuing responsibility for supervising and monitoring the implementation of the DoD Foreign Tax Relief Program within such Department or Agency. Such instructions or regulations shall delegate to the Cognizant Office au-

thority commensurate with its responsibility.

6. *Commanders of Unified Commands*, as appropriate, shall promulgate management procedures to guide and coordinate the administration of the DoD Foreign Tax Relief Program throughout their respective area commands.

7. For each foreign country that comes within the scope of subsection B.2. of this Directive, a single Military Commander shall be designated by the Commander of the Unified Command. The designated Military Commander shall be the same designated under the procedures in subsection IV.C. of DoD Directive 5525.1 (reference (d)). The designated Military Commander shall:

a. Make and maintain a current country tax law study in accordance with section F. of this Directive.

b. Be the single point of contact for U.S. contracting officers and activities for the investigation and resolution of specific matters that relate to the foreign tax relief program within the country for which the Military Commander is designated and for the forwarding of major problems affecting that program through proper channels to the General Counsel of the Department of the Defense.

c. Provide liaison with the responsible U.S. diplomatic mission on current tax relief problems and, where appropriate, with local foreign tax authorities.

F. Country Tax Law Studies

1. The taxes covered by each country tax law study shall be limited to those which in the absence of tax relief, would affect, or would appear to affect, U.S. Government expenditures, even as a *de minimis* matters. (All such taxes are hereafter referred to as "applicable taxes.") The formats of the studies for all countries shall be similar within each Unified Command insofar as practicable, and designed to facilitate statistical reporting procedures. The studies shall be prepared and maintained with a view to the practical utilization of the studies by U.S. contracting officers and activities for purposes of making reliable estimates of the total amount of taxes applicable to any particular contract and the amount thereof for which tax relief is available.

2. Each country tax law study shall consist of the following:

a. A general survey of all applicable taxes, together with translations, as appropriate, of the salient featured of the law or regulations imposing those taxes.

b. For each applicable tax, a summary statement containing: Its name; its rate (or rates); the taxing authority (national, provincial, or municipal); the legal incidence of the tax (the nature of the taxpayer or other entity liable for the payment of the tax to the taxing authority under the law of the country); its descrition (including the base or bases on which the tax is imposed); the applicability of the tax to various types of contracts (supplies, services or construction) is the event the tax is applicable to only one or serveral of such types of contracts; the applicability of the tax to the prime contract, as well as to any subcontracts or purchase orders issued by the prime contractor or subcontractor; the applicability of the tax to contractor and subcontractor personnel; the variation, if any, of the applicability of the tax depending upon the domicile of the contractor or contractor personnel, such as United States, host country, or third country; any applicable exemptions of deductions of significance; and the method of collection of the tax.

c. The basis upon which it is concluded that each applicable tax, in absence of tax relief, would affect, or would appear to affect, U.S. Government expenditures, and any evidence of the degree to which its ultimate economic burden would, in absence of tax relief, be borne by the U.S. Government rather than be absorbed by others.

d. The substantive tax relief, if any, from each applicable tax that is available to the U.S. Government either by international agreements in force or under the tax law or other regulation of the country; the procedures which may be used to obtain any such relief; the requirement, if any, for the issuance of a tax exemption certificate by the military procuring agency or by an agency of the country to secure an exemption; the entitlement, if any, of the taxpayer to interest on any tax refund made by the host country; the credits, if any, that may be available against any other taxes otherwise payable by the taxpayer resulting from the payment of the tax under analysis; the approximate amount of the tax that should be involved in a particular case, if such can be estimated, taking into account the costs of filing a claim for refund by a contractor to warrant filing such a claim; and a brief narration of any significant problems which have occurred in attempting to obtain relief in particular cases.

e. A conclusion with regard to the adequacy of current tax relief measures; and such recommendations as may be appropriate for more efficient implementation of the policy set forth in this Directive.

3. Appended to each country tax law study shall be a verbatim quotation of all provisions relating to tax relief afforded by the countries that are contained in international agreements in force.

4. One copy of each country tax law study shall be forwarded to the General Counsel of the Department of Defense and to each of the Cognizant Offices of the Military Departments and Defense Agencies within 30

days after its approval by the designated Military Commander. The information contained in the studies shall be disseminated by the Cognizant Offices to U.S. contracting officers and activities when required.

5. Country tax law studies shall be subject to continuing review. When there is a significant change in country tax laws, regulations, tax relief procedures, or in pertinent international agreements in force, the corresponding revision shall be promptly forwarded by the designated Military Commander to each of the offices referred to in subsection F.4.

G. Information Requirements

1. The reporting requirement contained in section F. relating to the submission of country tax law studies and revisions thereof is assigned Report Control Symbol (DDSD(AR) 1036.

2. Each January a summary of significant activities during the preceding year in implementation of the DoD Foreign Tax Relief Program shall be furnished by the Heads of Cognizant Officer to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Cognizant Office to discharge its responsibility for supervising and monitoring the implementation of the foreign tax relief program within its Military Department or Defense Agency, and for disseminating the information contained in country tax law studies to U.S. contracting officers and activities. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC(A) 1198.

3. Each January a summary of significant activities during the preceding year of the administration of the foreign tax relief program shall be furnished by Commanders of the Unified Commands to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Unified Command to discharge its responsibility to supervise and coordinate the preparation and maintenance of country tax law studies. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC(A) 1199.

H. Effective Date

This Directive is effective immediately. Forward two copies of implementing documents to the General Counsel of the Department of Defense within 120 days.

C.W. Duncan, Jr.,
Deputy Secretary of Defense.

Part 2—Implementation and Administration of DoD Directive 5100.64

Q-201 Implementation. DoD Directive 5100.64 has been implemented by the following regulations and instructions:

Department of the Army Regulation AR 27-70;

Department of the Navy Instruction SECNAVINST 5840.5;

Department of the Air Force Regulation AFR 110-18;

Defense Communications Agency Instruction 100-50-6;

Defense Contract Audit Agency Regulation 5100.3;

Defense Mapping Agency Instruction 5500.2;

Defense Nuclear Agency Instruction 5100.64; and

Defense Supply Agency Regulation 5500.6.

Pursuant to 11-000(d), the applicable implementing regulation or instruction should be consulted by contracting activities before the initiation of foreign acquisition.

Q-202 Administration of Program Under Unified Commands. The following Unified Commands have issued management procedures to guide and coordinate the administration of the foreign tax relief program throughout their respective area commands:

Commander in Chief, European Command (USCINCEUR) EUCOM DIRECTIVE 45-8;

Commander in Chief, Atlantic Command (CINCLANT) CINCLANTINST 5840.2A;

Commander in Chief, Pacific Command (CINCPAC) CINCPACINST 5840.2B; and

as regards Canada and Greenland, Commander, Aerospace Defense Command (ADC) ADC Regulation 110-1.

These issuances implement subsection E 7. of DoD Directive 5100.64 (*see Part I of this Appendix Q*) and apply to the contracting activities within the geographical areas assigned to the respective Unified Commands.

Part 3—Designated Commanding Officers

Q-301 Designated Commanding Officers. For the following foreign countries and areas a single military commander as indicated has been designated pursuant to subsection E. 7. of DoD Directive 5100.64 to make and maintain a current country tax law study, to serve as a single point of contact for U.S. contracting officers and contracting activities for the investigation and resolution of specific foreign tax relief matters, and to serve as a point of liaison with the responsible diplomatic mission and local foreign tax authorities.

Country or Area	Designated Commanding Officer
Australia	Commander in Chief, Pacific Rep., Australia
Azores	Commander, U.S. Forces, Azores
Bahrain	Commander in Chief, U.S. Naval Forces, Europe
Belgium	Commander in Chief, U.S. Army, Europe
Bermuda	Commanding Officer, U.S. Naval Air Station, Bemuda
Canada	Commander, Aerospace Defense Command
Caribbean Islands (including Bahamas).	Commander, Antilles Defense Command
Denmark	Commander in Chief, U.S. Air Forces, Europe
Ethiopia	Commander in Chief, U.S. Army Europe
France	Commander in Chief, U.S. Army, Europe
Germany	Commander in Chief, U.S. Army, Europe
Greece	Commander in Chief, U.S. Air Forces, Europe
Greenland	Commander, Aerospace Defense Command
Iceland	Commander Iceland Defense Force
Iran	Commander in Chief, U.S. Army, Europe
Italy	Commander in Chief, U.S. Naval Forces, Europe
Japan	Commander, U.S. Force, Japan
Korea	Commander, U.S. Forces, Korea
Luxembourg	Commander in Chief, U.S. Army, Europe
Morocco	Commander in Chief, U.S. Naval Forces, Europe
Netherlands	Commander in Chief, U.S. Air Forces, Europe
New Zealand.	Commander, U.S. Naval Support Forces, Antarctica
Norway	Commander in Chief, U.S. Air Forces, Europe
Philippines	Commander in Chief, Pacific Rep. Philippines
Portugal	Commander in Chief, U.S. Naval Forces, Europe
Spain	Commander in Chief, U.S. Air Force, Europe
Taiwan	Commander, U.S. Taiwan Defense Command
Thailand	Commander, U.S. Military Assis tance Command, Thailand
Turkey	Commander in Chief, U.S. Air Forces, Europe
United Kingdom.	Commander in Chief, U.S. Air Forces, Europe

[51 FR 46523, Dec. 23, 1986]

Appendix R—Code of Federal Reguations

Title 41—Public Contracts and Property Management

Chapter 50—Public Contracts, Department of Labor

PART 50-206—THE WALSH-HEALEY PUBLIC CONTRACTS ACT INTERPRETATIONS

(NOTE.—Part 50-206 is codified in 41 CFR Chapter 50.)

[51 FR 46526, Dec. 23, 1986]

Appendix S—[Reserved]

Appendix T—International Agreements

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T-000 Scope of Appendix. This Appendix contains copies of international agreements entered into by the Department of Defense.

Part 1—FMS/Offset Arrangements

T-100 Scope of Part. This part provides, for information purposes only, copies of FMS/Offset Arrangements negotiated pursuant to FMS agreements. See DAR 6-1315.

T-101 Australian Memorandum of Discussion.

Memorandum of Discussions

Against the purchase by the Government of Australia from the United States Department of Defense of major weapons systems and items of defense equipment, the U.S. Department of Defense agrees to establish the basis of an associated offset arrangement. The offset arrangement is pursuant to the discussions held in Washington on 10 April 1973 between the U.S. Department of Defense and the Australian Department of Defense. In these discussions the following principles and understandings were agreed:

1. The U.S. Department of Defense will commit itself to a combined U.S. Industry and DoD offset objective of no more than 25% of the value of a major Australian order.

2. The U.S. Department of Defense and the Australian Department of Defense will look to those U.S. firms benefiting substantially from an Australian order to carry the initial and primary burden of offset implementation.

3. In the event that U.S. firms and subcontractors are unable to completely fulfill their offset objectives, the U.S. DoD will first offer Government Furnished Equipment (GFE) to Australian industry as bid opportunities and, second, if GFE items turn out to be unsuitable for either partner, select other items of defense equipment and supplies which appear to be competitively obtainable from Australian sources.

4. The DoD reserves the right, unilaterally, to select appropriate procurements for offset implementation. However, to facilitate the selection of suitable items, DoD will consult with A/DoD to identify areas of Australian industrial/technological strength.

5. DoD procurement from Australian sources will normally be competitive and be subject to two basic conditions: *one*, that the items of procurement fully satisfy DoD requirements for performance, quality, and delivery, and *two*, that the items of procurement cost DoD no more than would comparable U.S. items or other foreign items eligible for award.

6. If and when special circumstances invite it, the DoD may consider alternative means of procurement involving directed procurements or negotiated procurements, including items of Research and Development, to the extent appropriate items can be selected.

7. Procurements from Australian sources made under DoD implementation of offset arrangements will be in accord with the Armed Services Procurement Regulations (ASPR). Selective waiver of the Buy American Act and the DoD "Gold Flow" rule will be made by the DoD for those procurements in which Australian sources are solicited and evaluated to be the winning bid except for application of these differentials. Thus the DoD will authorize case-by-case exceptions of these differentials in consonance with the principles and understandings of this Memorandum of Discussions.

8. As a general rule, the DoD role in this offset agreement will begin at the time of an Australian Request for Quotation (RFQ). The time-frame for placement of orders in fulfillment of the DoD share of the U.S. offset objective will be within five years of the initial date of delivery of the items purchased against which the offset objective is measured.

9. Notwithstanding the DoD's willingness to facilitate and to assist the A/DoD and Australian industry in successfully accomplishing the purposes and understandings of the offset arrangement, it remains the basic Australian responsibility to carry out those actions to bring its sales to the U.S. defense industry market and to the DoD to successful consummation.

10. It is recognized that detailed implementing procedures for the management of offsets will be needed. These procedures necessarily involve both procurement and sales activities and they will be developed in subsequent meetings as mutually agreed.

Signed, ad referendum, this 10th day of April 1973 in Washington, DC.

SUBMITTED:

LEONARD A. ALNE,
For the U.S., Department of Defense.

ROY W.G. DAVIES,
For the Australian Department of Defense.

APPROVED:

W.P. CLEMENTS, JR.
L. Barnard, M.O.D.

DETAILS OF AGREEMENT (D OF A) MUTUAL ACCEPTANCE OF GOVERNMENT QUALITY ASSURANCE

ANNEXES:

- A(D of A)—Quality Assurance Request Format.
- B(D of A)—Certificate of Conformity.
- C(D of A)—Statement of Unsatisfactory Conditions.

Agreement

1. a. The Defense Authorities of the United States of America and of Australia agree that the appropriate national authority in each country will provide in its country upon request by the appropriate national authority in the purchasing country a Government Quality Assurance Service to orders in all areas of defense supply and services subject to the conditions and definitions contained in this D of A.

b. Nothing contained in this D of A shall be construed as a limitation to bilateral agreements between the two countries which further and extend the reciprocal utilization of the services of the national authorities beyond the minima specified in this D of A.

Application

2. It is agreed that request for Government Quality Assurance in the manufacturing country will be restricted to those cases where quality cannot be satisfactorily verified after receipt or when Government Quality Assurance at source is considered essential by the purchasing country.

Definitions

3. a. *Government Quality Assurance.* Government Quality Assurance is the process by which the appropriate national authorities determine and certify that the technical requirements of contracts are met.

b. *Supplier.* Supplier is the manufacturer on whom an order is placed.

c. *Purchaser.* Purchaser is the Government, or company or organization with Government cognizance placing an order on a supplier.

d. *Order.* Order is the contract placed by the Government, company or organization or the sub-contract arising therefrom placed by a purchaser on a supplier.

Procedure for Requesting Government Quality Assurance

4. a. Requests for Government Quality Assurance in Australia shall be directed to: Department of Defence, P.O. Box E33, Queen Victoria Terrace, Parkes, ACT 2600, Attn: QAERP (CP4-3-46).

Request for Government Quality Assurance in the United States shall be directed to DCASR, New York as follows: Department of Defense Central Control Point, DCASR, New York, 201 Varrick St., New York, N.Y. 10014.

b. All requests for Government Quality Assurance shall be forwarded on the form shown at Annex A.

c. Such request shall contain all pertinent information including, but not limited to, the name and address to which technical communications may be forwarded, special requirements with regard to certificates, markings, identification, etc.

d. Further, the Delegator shall ensure that the Delegatee is supplied with the required number of copies of the order, applicable specifications, drawings, specific quality requirements and other documents or data essential to the performance of the requested Government Quality Assurance with interpretations approved by the contracting parties if necessary.

Acceptance oj a Request for Government Quality Assurance

5. a. On receipt of a request for Government Quality Assurance the Delegatee shall, as the case may be:

(i) Accept the request, with or without comments and qualifications, and forward to the Delegator such acceptance in writing, or

(ii) Transfer the request to another authority in his country informing the Delegator of the action taken, or

(iii) Inform the Delegator that the Government Quality Assurance cannot be performed, for reasons stated.

5. The Delegator shall inform the supplier through the Delegatee when decisions 5 (i) or 5 (ii) are taken.

b. If an article to be inspected includes a portion or portions outside the competence of the Delegatee Inspectorate, special arrangements will be made by the Delegatee Authority for the inspection of such portion or portions.

c. The Delegatee will inform the Delegator of any subcontract placed by the supplier in a third country. The Delegator as advised by the Delegatee will then decide what Government Quality Assurance shall be performed and if necessary or desirable shall co-operate with the Delegatee in arranging the quality assurance in that third country.

Contractual Provisions

6. a. The order shall contain an appropriate requirement on the supplier which will enable the Delegatee as the authorized representative of the Delegator to have all necessary access and the right to perform the required Quality Assurance, in accordance with his normal or such special procedure as may otherwise be agreed between the Delegator and Delegatee.

b. The order shall define the method to be used for any conversion between the foot-pound—and the metric systems of measurements which may be required in the course of checking and measuring.

c. Order shall provide that the supplier (including his sub-contractors) is responsible for maintaining effective control of the quality of supplies and services, for the provision of test facilities and the performance of inspection essential to demonstrate full conformance of the supplies to contract requirements prior to offering them for acceptance, and for the provision of objective evidence that controls and inspections are effective.

Procedure for Government Quality Assurance

7. Having accepted a request for Government Quality Assurance the Delegatee shall take appropriate actions inaccordance with

its normal and established Quality Assurance Procedures to satisfy the request. If required for specific production, the Delegator and Delegatee may mutually establish special requirements for the Government Quality Assurance.

Notification of Unsatisfactory Conditions

8. If the Delegatee finds that, at any time during the course of the order, he cannot proceed with his function of Government Quality Assurance because of deficiencies in the supplier's system (e.g. required supplier testing cannot be performed because of lack of test facilities, test devices are not in a known state of calibration, qualification or other engineering approval is not held, etc.) or product (including parts, materials or processes) and such deficiencies are of major importance or will be a cause of excessive delay, the Delegatee will immediately advise the Delegator of these facts using the form shown at Annex C (D of A).

Certification of Conformity

9. Certification of conformity shall be provided by the Delegatee to the Delegator for each batch, lot or shipment in the manner prescribed at Annex B (D of A) or in any equivalent format containing the same minimum information.

Release for Delivery

10. Release for delivery of materiel and equipment whose quality has been assured by the above procedures shall be given in manner prescribed in the Delegator's initial request. Normally, release for delivery will be simultaneous with the issue of the Certificate of Conformity.

Deviations

11. a. Prime Contracts

Except where otherwise directed by the Delegator, the Delegatee shall be empowered to grant requests by the manufacturer for permission to depart from the technical requirements of the contract unless such departures will affect safety, reliability, maintainability, interchangeability, storage life, performance, or cost. The Delegator shall be notified of any requests granted by the Delegatee.

Those applications for deviations which are subject to the decisions of the Delegator shall be forwarded by the manufacturer to the Delegator via the Delegatee.

b. Sub-Contracts

Requests for deviations on sub-contracts shall be forwarded by the supplier to the purchaser for action in accordance with the contractual requirements.

Delegator's Participation

12. The Delegator shall have the right visit the manufacturer concerned during t course of the performance of the contrac subcontract. Any such visits shall be a ranged through the Delegatee who sha have the right to accompany.

Communication

13. a. The Delegator shall ensure that th Delegatee is promptly furnished with an amendments, modifications or changes i the documents originally supplied in accordance with paragraph 4 d. above.

b. Any correspondence between the Delegator and the manufacturer, pertaining t Quality Assurance shall be transmitted through the Delegatee.

c. Delegatee and Delegator will consult together on any event of an unexpected character which is likely to affect the quality of materiel, equipment or services.

Charges

14. Reimbursement will be required for Quality Assurance services provided by each country. Charges will be determined by mutual arrangement.

Liability

15. The fact that the Delegatee has signed a Conformity Certificate will not relieve the contractor from the responsibility for furnishing supplies that meet all specifications of the contract. In the event that defects are discovered on or subsequent to delivery of materiel and services, no liability shall be attached to the Delegatee. The Delegatee shall, however, assist the Delegator in the investigation of such defects. The Delegator will provide the Delegatee with full description of the defects with supporting evidence, and, if possible, a sample of the defective parts.

Review of Agreement

16. This agreement will be reviewed every two years or as otherwise required.

Implementation of the Agreement

17. This D of A will be considered to have been implemented when orders have been issued to the personnel of the Government Quality Assurance Authority to comply with the provisions of this documents.

Mary Ann Gillence,
Deputy Under Secretary (Acquisition Management), For the United States Department of Defense.
Desmond N. Biddle,
Counsellor (Defence Supply), For the Secretary, Department of Defence Commonwealth of Australia.
Washington D.C.
October 1984

ANNEX A

REQUEST FOR QUALITY ASSURANCE	
1. Issuing Authority (Delegator)	2. Forward to (Delegatee)
QUALITY ASSURANCE IS HEREBY REQUESTED FOR	
3. Government Contract No.	4. Purchaser
5. Order No.	6. Supplier (Name and manufacturing location)
7. Description and quantity	
8. Special Quality Assurance Requirements (if necessary, attach sheets)	
9. Attached hereto are: Copies of above order	10. Special remarks and/or instructions (if necessary, attach sheets)
11. Technical data and quality assurance requirements are attached hereto will be furnished by the supplier/purchaser	12. Signature (Delegator) 13. Date
	14. Name and title/position (Block Capitals)

Decision overleaf

INTERNATIONAL AGREEMENTS

DECISION	
15. The requested Government Quality Assurance will be performed by the activity designated in 17 below and all communication on technical subjects should be addressed to that authority.	
16. Above request cannot be accepted due to reasons stated in 17 below.	
17. Designated activity or reasons for reservations or non-acceptance or notice of transfer of request to another national authority.	
The addressee in 2 above is requested to complete columns 15-20 and return one copy to the issuing authority (re.1 above)	18. Signature (Delegates) 19. Date
	20. Name and title/position (Block Capitals)

INTERNATIONAL AGREEMENTS

ANNEX B

CERTIFICATE OF CONFORMITY				
Page 1		No. of Pages		
1. Purchaser		2. Order reference 3. Government Contract No.		
4. Mailed to (Delegator)		5a. Shipped to (Consignee)		
5. From (Supplier)		6b. Shipment number on order Partial Final		
7. Certified that the whole of the supplies detailed below (or the services described above) conform in all respects to the specification(s), drawing(s) and order relative thereto and that the supplies have been inspected and tested in accordance with the conditions and requirements of the order Date Signature(Supplier) Name(printed)				
8. Contract Item No.	9. Stock/Part No. and Name	10. Quantity	11. Package No.	12. Undelivered Balance

Continue list on separate pages if necessary

Government Certificate (see overleaf)

13. Quantity received	
14. Government Quality Assurance Service (Delegatee)	15. This is to certify that within the provisions of the agreement the supplies and (or) services identified above have been subject to Government Quality Assurance and are considered to comply with the provisions of the applicable contract. Date Signature Name(printed)
16. REMARKS	

ANNEX C

QUALITY ASSURANCE ADVISORY REPORT
STATEMENT OF UNSATISFACTORY CONDITIONS

to (Delegator)	Contract issued by
Contract Number	Supplier
Request for Government Quality Assurance Number Date	
Pertinent contractual provisions(s) (identity by article number if possible)	
STATEMENT The following unsatisfactory conditions(s) pertaining to Quality Assurance on the above contract is reported	

Issued by (Delegatee)	Date	Signature, Name and Title

PART 2—MOU'S WITH NATO PARTICIPATING COUNTRIES

T-200 Scope of Part. This part provides, for information purposes only, copies of Participating Country Agreement, Memoranda of Understanding, and accompanying annexes. See DAR 6-1406.

T-201 Canadian Agreements.

T-201.1 *Letter of Agreement With Canada.*

1. This agreement applies to all contracts placed, on or after October 1, 1956, by any of the Military Departments with the Corporation. It shall remain in force from year to year until terminated by mutual consent; however, it can be terminated on the 31st day of December or the 30th day of June in any year by either party *provided* that six months notice of termination has been given in writing. In addition, this agreement provides for certain reciprocal arrangements facilitating procurement by each of the parties in the country of the other.

2. (a) The Corporation agrees that it will cause all first-tier subcontracts under contracts covered by this agreement to be placed in accordance with the practices, policies, and procedures of the Government of Canada covering procurement for defence purposes; and agrees that if the aggregate profit realized under such subcontracts by any first-tier subcontractor exceeds that which is allowed by the Government of Canada under the above mentioned practices, policies, and procedures, the amount of such excess will be refunded by the Corporation to the Military Departments. There shall also be refunded profits on any subcontract in excess of amounts which the Minister of Defence Production (Canada) in the exercise of said practices, policies and procedures considers to be fair and reasonable, recovered by the Minister pursuant to section 21 of the Defence Production Act (Canada) from any individual subcontractor of any tier. It is recognized that the practices, policies and procedures of the Government of Canada referred to above permit various rates of profit in accordance with the terms of the said practices, policies, and procedures as from time-to-time amended; however, in no case will the rate of profit be allowed to exceed any limit prescribed by statute of the Government of the United States. For the purpose of this paragraph, the Corporation will cause to be conducted such audits in accordance with the Costing Memorandum (DDP-31) of the Department of Defence Production (Canada) and such verifications of cost as are in accordance with the said practices, policies, and procedures. The Corporation will render to the Military Departments its certificate that the provisions of this paragraph have been observed.

(b) Contracts for communication transportation services, and the suppl power, water, gas and other utilities shal excepted from the provisions of subp graph (a) above, provided the rate charges for such services or utilities fixed by public regulatory bodies; and p vided further the Military Departments accorded any special rates that may available to the Canadian Government w respect to such contracts.

(c) The Canadian Government, its Depa ment and Agencies, including but not lim ed to the Corporation and Canadian Ar nals Limited, a Crown Company whol owned by the Canadian Government, sh not be entitled to any profit on any contra or contracts covered by this agreement. A profits which may be realized shall be r turned to the Military Departments excep as hereinafter provided: Before refundin profits realized from the following sources:

(i) Net profits of the Canadian Govern ment, its Departments and Agencies, as de fined above, with respect to contracts an subcontracts covered by this agreement.

(ii) Excess profits referred to in paragraph (a) above, and

(iii) Renegotiation recoveries from subcontracts of any tier under contracts covered by this agreement, which recoveries the Military Departments would otherwise be entitled to receive in accordance with the provisions of subparagraph (a) above;

Corporation shall be entitled to deduct any losses it may sustain with respect to contracts covered by this agreement.

(d) Interim adjustments and refunds under this paragraph 2 shall be made at such time or times as may be mutually agreed upon but at least once a year as of June 30th. Such interim adjustments shall apply only to completed contracts. The final adjustment and refund shall be made as soon as practicable after the expiration of this agreement.

(e) The profit and loss provisions of this paragraph 2 shall not apply to contracts awarded to the Corporation as the result of formal competitive bidding (initiated by Invitation for Bids).

3.(a) All contracts placed by the Military Departments with the Corporation, except those placed as the result of formal competitive bidding, shall provide for prices or cost reimbursement, as the case may be, in terms of Canadian currency, and for payment to be made in such currency. Therefore, quotations and invoices shall be submitted by the Corporation to the Military Departments in terms of Canadian currency, and such cost data, vouchers, etc., as the contracts require shall also be submitted in terms of Canadian currency. However, the Corporation may elect in respect to any of such contracts to quote, submit the said cost data, vouchers, etc., and receive payment in United States currency, in which event such contracts shall provide for payment in United States currency and shall not be subject to adjustment for losses or gains resulting from fluctuations in exchange rates.

(b) All formal competitive bids shall be submitted by the Corporation in terms of United States currency and contracts placed as a result of such formal competitive bidding shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

4. The Military Departments and the Corporation shall avoid, to the extent consistent with the declared policies of the Military Departments and the Canadian Government, the making of any surcharges covering administration costs with respect to contracts placed with the Corporation by any of the Military Departments and contracts placed by the Military Departments in the United States for the Canadian Government.

5. To the extent that contracts placed with the Corporation by the Military Departments provide for the audit of costs and profits, such audit will be made without charge to the Military Departments by the Cost Inspection and Audit Division of the Treasury of Canada in accordance with Costing Memorandum Form DDP-31 of the Department of Defence Production, Canada.

6. The Canadian Government shall arrange for inspection personnel of the Department of National Defence (Canada) to act on behalf of the Military Departments with respect to contracts placed by the Military Departments with the Corporation and with respect to subcontracts placed in Canada by United States contractors which are performing contracts for the Military Departments, and for the use of inspection facilities of the Department of National Defence (Canada) for such purposes, such personnel and facilities to be provided without cost to the Military Departments. The Military Departments shall provide and make no charge for inspection services and inspection facilities in connection with contracts placed in the United States by the Military Departments for the Canadian Government and with respect to subcontracts placed in the United States by Canadian contractors which are performing contracts for the Department of Defence Production* (Canada). The Department of National Defence (Canada) or any Military Department may provide liaison with the other's inspection personnel in connection with the foregoing. It is understood that either the Department of National Defence (Canada) or any Military Department may in appropriate cases arrange inspection by its own inspection organization in the other's country.

7. Because of the varying arrangements made by the Canadian Government and the Military Departments in furnishing Government-owned facilities (including buildings and machine tools) to contractors, it is recognized that the matter of inclusion in contract prices of charges, through amortization or otherwise, for use of such facilities will be determined in the negotiation of individual contracts. However, there shall be avoided, to the extent consistent with the policies of the Canadian Government and Military Departments, any such charges for use of Government-furnished facilities.

8. (a) The Corporation agrees that the prices set out in fixed-price type contracts covered by this Agreement will not include any taxes with respect to first-tier subcontracts; nor shall prices include custom duties to the extent refundable in accordance with Canadian law, paid upon the import of any materials, parts, or components incorporated or to be incorporated in the supplies, with respect to first-tier subcontracts.

(b) The Corporation agrees that under cost-reimbursement type contracts the Corporation shall, to the extent practicable with respect to first-tier subcontracts, exclude from its claims all taxes and to the extent refundable in accordance with Canadian Law, customs duties, paid upon the import of any materials, parts or components, incorporated or to be incorporated in the supplies and that any amounts included in such claims representing such taxes and duties shall be refunded or credited to the Military Departments.

(c) The Corporation agrees that to the extent that such taxes and duties can be reasonably and economically identified it will use its best endeavors to cause such taxes to be excluded from all subcontracts below the first tier and if found to be included to be recoverable and credited to the Military Departments.

9. The Corporation recognizes that existing law of the United States prohibits the use of the cost-plus-a-percentage-of-cost system of contracting.

10. Each contract covered by this agreement shall be deemed to include the provisions required by (i) Pub. L. 245, 82nd Congress of the United States (65 Stat. 700; 41 U.S.C. 153(c)) and (ii) section 719 of Pub. L. 458, 83rd Congress of the United States (68 Stat. 353) or similar provisions that may be required by subsequent legislation.

(End of Agreement)

*Now the Department of Supply and Services

T-201.2 *Cooperative Agreement with Canada.*

Memorandum of Understanding in the Field of Cooperative Development Between The United States Department of Defense and the Canadian Department of Defence Production

This Memorandum of Understanding complements the U.S.-Canadian Defence Production Sharing Program by establishing a cooperative agreement in defense research and development between the United States Department of Defense (DoD) and the Canadian Department of Defence of Production (CDDP), called the Defense Development Sharing Program.

1. *Objectives:*

The principle objectives of the Defense Development Sharing Program are:

a. To assist in maintaining the Defense Production Sharing Program at a high level by making it possible for Canadian firms to perform research and development work undertaken to meet the requirements of U.S. armed forces.

b. To utilize better the industrial scientific and technical resources of the United States and Canada in the interest of mutual defense.

c. To make possible the standardization and interchangeability of a larger amount of the equipment necessary for the defense of United States and Canada.

2. *Description of the Program:*

a. The Defense Development Sharing Program will consist of research and development projects (such program projects being here and after referred to as "projects"):

(1) Which are performed by Canadian prime contractors;

(2) Which are designed to meet specific DoD research and development requirements;

(3) In which the Military Department of DoD which is the United States party to the project agreement acts as the design authority; and

(4) Which are jointly funded by DoD and CDDP. (Where DoD undertakes the research and development of a weapons system composed of several components, work funded by CDDP on one or more of such components will be considered to be jointly funded).

b. The Defense Development Sharing Program will not include efforts referred to in paragraph 13.

3. *Funding: The financial contribution of DoD in each project will not be less than 25 percent of the costs incurred subsequent to the date of the project agreement provided that in the case of work referred to in the parenthetical sentence of paragraph 2.a(4), the financial arrangements shall be as agreed to by DoD and CDDP in the project agreement.*

4. *Selection of Projects:*

A proposal to initiate a project may made by CDDP to any of the Military partments of DoD or by any of the Milit Departments of DoD to CDDP. Each posal will contain a complete and detai description of the scope of the project work to be performed and of the sugges cost sharing arrangement. Projects will selected by mutual agreement of CDDP the Military Department of DoD concern

5. *Project Agreements:*

The specific terms and conditions of ea project will be governed by a project agr ment between the Military Department DoD and CDDP. The project agreement w *inter alia* set forth the scope of t projects, the work to be performed, types reports to be submitted, the time and fun ing schedules, and the cost of sharing a rangements.

6. *Selection of Prime Contractors:*

The selection of prime contractors fo work to be performed under a project shal be subject to mutual agreement.

7. *Contract Clauses for Projects:*

The Canadian Government agencies responsible for placing and administering research and development contracts with Canadian firms, will insert suitable provisions in such contracts obtaining for DoD the same production rights, data, and information that DoD would obtain for itself if DoD were solely funding and placing the contract under its Armed Services Procurement Regulation.

8. *Competitive Research and Developmen*

DoD will not engage in research and development which duplicate the work being carried out under any project unless DoD considers such research and development to be in the United States national interest. The appropriate DoD agency will notify CDDP before undertaking such duplicative research and development and will, if requested by CDDP, promptly enter into consultations with CDDP.

9. *DoD Procurement of Researched Developed Items:*

Procurement by DoD from Canadian firms of items developed in a project will be made under the Defense Production Sharing Program and in accordance with the DoD Armed Services Procurement Regulation. Pursuant to that Regulation, procurement of items developed by Canadian firms under the Defense Development Sharing Program will not be "set aside" for small business or for labor surplus areas.

10. *Security:*

a. Information and materials developed within projects will be considered to be jointly developed, and classification and declassification thereof will be determined jointly.

b. Classified information and materials exchanged in connection with or developed within projects will be safeguarded in accordance with the United States-Canadian Security Agreement of January 30, 1962, in the United States-Canadian Industrial Security Agreement effected by an exchange of letters dated February 6 and March 31, 1952, as amended.

11. *Disclosure of Classified Information:*

a. Classified information and materials received by either Government under the Defense Development Sharing Program but not developed within a project will not be disclosed or transferred to third countries, or nationals of third countries, without the consent of the originating Government.

b. Jointly developed classified information materials will not be transferred or disclosed to any third party by either Government or nationals thereof without the consent of the other Government.

12. *Sales:*

a. Sales or transfers to any third party of items developed in a project containing classified information or materials will be subject to the provisions of paragraph 11.

b. Sales or transfers to NATO, Commonwealth, and SEATO countries, or nationals thereof, of jointly developed unclassified items may be made in accordance with any applicable arrangements between Canada and the United States regarding munitions control. Sales or transfers to any other third party of jointly developed unclassified items will not be made without the consent of both parties to this agreement.

c. Sales or transfers to any third party of jointly developed unclassified rights, information, or data necessary for the production of an item developed in a project will not be made without the consent of both parties to this agreement.

13. *Other Research and Development Efforts not in Defense Development Sharing Program:*

a. Consistent with normal DoD source selection procedures, Canadian firms may bid for DoD research and development contracts which are to be funded solely by the United States. DoD will evaluate proposals from qualified Canadian firms on a parity with proposals received from United States firms. CDDP undertakes to ensure that Canadian firms comply with DoD procurement procedures.

b. CDDP may award and solely fund research and development contracts to Canadian firms for the purpose of satisfying existing or anticipated DoD requirements. DoD and its Military Departments will not act as Design Authority for such contracts. In the event that the results of any such contract become of sufficient interest to DoD to warrant joint funding, the contract work may, upon mutual agreement, be made the subject of the Defense Development Sharing Program project.

14. *Canadian Access to United States Information:*

Subject to United States legislation and national policy, the Government of Canada will have access to information on the future requirements of DoD research and development programs and Canadian firms will have the same access to DoD research and development program information as United States firms.

15. *Supersession of Prior Arrangements:*

This Memorandum of Understanding supersedes the memoranda between CDDP and the United States Departments of the Army, and Air Force, respectively, dated July 26, 1960 and December 22, 1961, except with respect to projects already entered into thereunder.

16. *Effect and Duration:*

This Memorandum of Understanding will remain in force indefinitely, subject to modification or termination at any time by mutual agreement or to termination six months after receipt by either party of written notice of the intention of the other party to terminate it.

CHARLES M. DRURY,
Minister of Defence Production.

Dated: November 21, 1963.

ROBERT S. MCNAMARA,
Secretary of Defense.

Dated: November 16, 1963.

T-202 UNITED KINGDOM MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of the United States and the Government of the United Kingdom of Great Britain and Northern Ireland Relating to the Principles Governing Cooperation in Research and Development, Production, Procurement and Logistic Support of Defense Equipment (Short Title: Cooperation Memorandum)

Introduction

The Government of the United States of America (USG) and the Government of the United Kingdom of Great Britain and Northern Ireland (HMG). (Hereinafter referred to as the Governments),:

noting that the Governments established and have maintained understandings relating to reciprocal defense procurement since 1975; and

noting that the Governments already have an Arrangement dated May 1963 for Joint Military Development; and

are seeking to achieve greater co-operation in research, development, production, procurement and logistic support of defense equipment in order to:

—make the most cost-effective and rational use of their respective industrial, economic and technological resources to the extent permitted by national policies; and

—promote the widest possible use of standard or interoperable equipment; and

—develop and maintain an advanced technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding.

Then, seeking to further the above aims, the Governments have sought to reach certain understandings and this Memorandum sets out the understandings in regard to the guiding principles governing mutual co-operation in defense equipment production and purchasing.

The Governments intend the understanding of this Memorandum of Understanding ("MOU") to strengthen the North Atlantic Alliance. In so doing, the Governments recognize the efforts of the Independent European Program Group (IEPG) to enhance equipment collaboration by more comprehensive and systematic arrangements among the individual member nations. They, therefore, agree that in the event of a possible conflict between understandings entered into between the IEPG and the USG, and this MOU, the parties hereto will consult with a view to amend this MOU.

The Governments will regard this MOU as being part of the arrangements, in the larger context, for co-operation between Europe and North America within the Alliance.

Section 1—Principles Governing Reciprocal Defense Purchasing

1.1. Both Governments intend to facilitate the mutual flow of the defense procurement for their armed services, aiming at a long term equitable balance in their exchanges, consistent with their national policies and taking into consideration the relative technological level of such procurement and each country's financial, industrial, economic and commercial possibilities.

1.2. This MOU is intended to cover areas in which, in the view of both Governments, bilateral co-operation could be achieved in defense equipment production and procurement. This co-operation is intended to complement the work of the Conference of National Armament Directors (CNAD), the Independent European Program Group (IEPG) and the Senior NATO Logisticians Conference (SNLC).

1.3. To facilitate these objectives the following principles will be observed by the Governments:

1.3.1. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to implement the provisions of this MOU. Within 120 days of the effective date of this MOU, each government will provide to the other copies of such guidance and procedures.

1.3.2. The Governments will identify and nominate for consideration by each other items of defense equipment believed suitable to satisfy their respective requirements. The Governments will decide between them to which items of defense equipment purchases this MOU will apply and whether the items may be procured on a Government-to-Government or Government-to-Industry basis.

1.3.3. In the interests of standardization and the effective utilization of scarce resources, each Government will, to the extent practical, adopt qualified defense items that have been developed or produced in the other country.

1.3.4. The implementing procedures for this MOU (Annex I) will incorporate the following:

(i) Consistent with national laws and regulations, offers or proposals will be evaluated without applying price differentials under 'Buy National' laws and regulations, and without applying the cost of import duties.

(ii) Full consideration will be given to all qualified sources in each other's country in accordance with the policies and criteria of the relevant purchasing office. In addition, each country will give full consideration to all applications for qualification by sources in the other country;

(iii) Offers or proposals will be required to satisfy requirements of the purchasing office including performance, quality, delivery and costs;

(iv) Consistent with national laws and regulations provision will be made for duty-free certificates and related documentation.

1.3.5. To facilitate programs set in implementation of this MOU, the Governments understand that subject to their laws, regulations, established policies and procedures and subject to privately owned proprietary rights, each Government will, so far as it is able, release to the other and to its agents information and technology necessary to implement such programs.

1.3.6. The Governments, through their appropriate representatives, will consult concerning the effective implementation of this MOU. Such consultations will be conducted on the basis of section 2 of this MOU.

1.3.7. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Section 2—Implementation Machinery

2.1. The Governments will appoint repre- ntatives to a US-UK Defense Equipment ationalization Committee (DERC), to dis- ss and review progress in implementing is MOU.

2.2. The Assistant Secretary of Defense of equisition and Logistics in conjunction ith the Under Secretary of Defense for esearch and Engineering and the Under ecretary of Defense for Policy in co-ordina- on, as appropriate, with other DoD offices, ill be the responsible authority in the nited States of America.

2.3. The Head of Defence Export Services IOD, under the policy guidance of the Sec- etary of State for Defence, and in consulta- on, as appropriate, with the Chairman and embers of the MOD Equipment Policy ommittee, will be the responsible author- y in the United Kingdom of Great Britain nd Northern Ireland.

Section 3—Industrial Participation

3.1. Implementation of this MOU will in- olve full industrial participation. Notwith- tanding the governmental procedures to nplement this MOU, it will be the basic re- ponsibility of the industries in each coun- ry to identify and market their respective apabilities and to carry out the necessary ctions to bring about industrial participa- ion.

3.2. Each Government will be responsible or calling to the attention of its relevant in- ustries the basic understanding or this MOU, together with appropriate guidance n its implementation.

3.3. The Governments will arrange that heir respective procurement and require- nents offices are made familiar with the rinciples and objectives of this MOU and vill, consistent with their normal practice nd procedures with their country's indus- ry, assist sources in the country of the ther Government to obtain information oncerning proposed purchases, necessary ualification and appropriate documenta- tion.

Section 4—Security

4.1. Any classified information or material xchanged under the terms of this MOU vill be protected in accordance with the 961 US-UK General Security Agreement, s amended, and including the Industrial ecurity Annex thereto.

4.2. Each Government will take all lawful teps available to it to keep information ex- hanged in confidence under this MOU free rom disclosure under any legislative provi- on unless the other Government consents such disclosure.

4.3. To assist in providing the desired pro- ction, each Government will mark such in- rmation furnished to the other in confidence with a legend indicating the country of origin, the security classification, the conditions of release, and it unclassified the fact that the information relates to this MOU and that it is furnished in confidence.

4.4. Unclassified information provided by either Government to the other in confidence, and information produced by either government pursuant to this MOU requiring confidentiality will be safeguarded in a manner that ensures its proper protection from unauthorized disclosure. Each government will provide appropriate protection for unclassified but sensitive technical data which is at least equal to the protection provided by the originating government.

4.5. Technical Data Packages (TDPs) shall not be transferred between the two countries without the prior written permission of those owning or controlling any associated proprietary rights. Each Government will ensure that any TDPs which it may receive from the other are not used for any purpose other than for the purpose of offering or bidding on or performing prospective defense contract, without the prior written agreement of those owning or controlling proprietary rights, and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they may contain.

4.6. The Governments will maintain full and comprehensive lists of Technical Exchange Agreements to which both are party. These Agreements will be taken into account when applications from the Government of either country including Government supported industry applications; are made for the disclosure of information relating to co-operation under the terms of the MOU.

4.7. Bearing in mind the close co-operation of the two Governments to ensure the maintenance of NATO's technological superiority over the Warsaw Pact, they confirm that in considering each co-operative project carried out under this MOU, they will pay specific attention to exercising control both bilaterally and within multi-national bodies over the transfer to proscribed countries of technologies and associated manufacturing processes involved in defense programs.

4.8. A security review of all co-operative programs carried out under this MOU will be conducted annually by Project Managers to ensure government and industry compliance with the security regulations of both governments for the protection of classified and unclassified but sensitive technology.

Section 5—Duration

5.1. This MOU including Annexes I, II, III, IV and V listed below will come into effect upon signature by the Governments and will terminate on 1 January 1995.

I. Principles Governing Implementation
II. Mutual Acceptance of Test and Evaluation
III. Reciprocal Audits of Contracts and Subcontracts
IV. Principles Governing Logistics Support of the Defense Equipment
V. Reciprocal Quality Assurance Services

5.2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this MOU before 1 January 1995, any such proposal will be the subject of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of co-operation, to agree upon such actions as may be necessary to alleviate problems that may result from termination

5.3. It is intended that contracts entered into as a result of the co-operation fostered by the understandings in this MOU will not be terminated solely because of the termination of this MOU.

Section 6—Annexes

6.1. Further Annexes to this MOU may be negotiated by the responsible officers and approved by the appropriate authorities of each Government and will treated as an integral part thereof.

The foregoing represents the understandings reached between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland upon the matters referred to therein.

Signed in duplicate at ________ this _____ day of December 1985.

——— ———,

For the Government of the United States.
December 30, 1985

——— ———,

For the Government of the United Kingdom of Great Britain and Northern Ireland.
Date: December 18, 1985.

ANNEX I—PRINCIPLES GOVERNING IMPLEMENTATION

Section 1—Introduction

This Annex sets forth the procedures by which the Governments of the United States of America (USG) and United Kingdom of Great Britain and Northern Ireland (HMG) will implement the Memorandum of Understanding on co-operation in Research and Development, Production, Procurement and Logistic Support of Defense Equipment (hereinafter referred to as "the MOU").

Section 2—Major Principles

2.1. Each Government will consider for its defense requirements qualified defense items (and associated services included in a procurement contract) developed an produced in the other country. In addit the responsible purchasing agencies of Government will seek to inform themse of the defense items which might be a able from the other country to meet spe requirements.

2.2. It will be the responsibility prima of industry representatives in each coun to obtain information concerning the ot country's proposed developments and p chases and to respond to requests for p posals in accordance with the prescri procurement procedures and regulations the purchasing country.

2.3. Each Government will, consiste with normal practice and procedures w their own country's industry, ensure th the responsible Government authorities each country will assist sources in the oth country by responding promptly to reques for appropriate information concerning:

2.3.1. Plans and programs for productio and acquisition of defense items and ser ices.

2.3.2. Requirements for the qualificatio of sources.

2.3.3. Specifications, quality assuranc standards and other appropriate documen tation.

2.4. Full consideration will be given to qualified industrial and/or Governmen sources in both the US and UK, in accor ance with the policies and criteria of the r spective purchasing agencies. In additio each Government will give full conside ation to all applications for qualification b sources in the other country.

2.5. Offers will be required to satisfy re quirements including performance, quality delivery and cost. In preparing Invitation for Bids and Requests for Proposals, and i evaluating Offers, where applicable an consistent with national laws and regula tions, full consideration will be given to po tential NATO savings and/or increase NATO combat capability expected to resul from the procurement of items that ar standardized or interoperable with those o the Allies.

2.6. Consistent with national laws and reg ulations, offers of defense items develope and/or produced in the other country wil be evaluated without applying price differ entials under 'Buy National' laws and regu lations and without applying the cost o import duty.

2.7. Consistent with national laws and reg ulations provision will be made for duty-free entry certificates and related documentation.

Section 3—Actions

3.1. Both Governments will review and where considered necessary, revise policies procedures and regulations to ensure that the principles and objectives of the MOU, which are intended to be compatible with the broad aims of NATO Rationalization, Standardization and Interoperability, are taken into account.

3.2. Recognizing that factors such as delivery date requirements, the interests of security, and the timely conduct of the contracting process must be considered, the following arrangements will be made to ensure free and full competition for the award of contracts:

3.2.1. Each Government will ensure that as a minimum the following are familiar with the principles, objectives and terms of the MOU, which are complemented by the Arrangement for Joint Military Development dated May 1963:

- Its respective defense planning, programming and procurement offices.
- Its respective research and development offices.
- Its respective agencies and industries responsible for the development and production of defense items and associated services.

3.2.2. Each Government may assist industries in its country to advise the other Government of their capabilities, and assist such industries in carrying out the supporting actions to maximize industrial participation in the implementation of the MOU.

3.2.3. Each Government will consider defense items and associated services offered by the Government or industry of the other country as candidates for their respective requirements. In meeting their procurement requirements, the Governments will, as far as practicable, ensure that the industries of each country are afforded adequate time to be able to participate in the production and procurement process.

3.2.4. Both Governments will use all reasonable endeavours to assist in negotiating licenses, royalties and technical information exchanges among their respective industries.

3.2.5. Each Government will ensure that those items and/or services excluded from consideration under the arrangements made as a result of this MOU, for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. Each country will also consult the other, in advance, about any proposed addition to the excluded list. Such defense items and/or services, together with those items and/or services that must be excluded from such consideration under the MOU because of legally imposed restrictions on acquisition from non-national sources, will be identified as soon as possible by both Governments. Lists of these items and/or services will be prepared and kept under review by both Governments.

3.2.6. To the extent feasible, both Governments will ensure that their respective action under the MOU, in working toward an equitable balance in defense trade, take into consideration the level of technology as well as the contractual value.

Section 4—Counting Procedures

4.1. The purchases and other transactions to be counted against the goals of the MOU will be identified jointly by the Governments. In principle, all defense items (and associated services included in a procurement contract) purchased by either country will be counted against the goals of the MOU as long as they meet the following criteria:

That the defense items (and associated services included in a procurement contract) are:

4.1.1. Direct purchase by the defense agencies of each Government, one from the other.

4.1.2. Purchases by the defense agencies of either Government from the industry of the country of the other Government.

4.1.3. Purchases by industry from the Government of industry of the other country, in the framework of Government defense contracts.

4.1.4. Purchases by a third country Government from either US or UK Government or the industry of the country of either Government as a direct result of the effort of the other (non-vendor) country.

4.1.5. Purchases resulting from projects jointly funded by both countries, to be credited in proportion to each country's financial contribution to the project, and to work completed in each country. The applicability of such purchases to the MOU will be agreed between MOD/DoD in each case.

4.1.6. License fees, royalties and other associated income resulting from orders placed by industry or Government of either country with a licensed company in the other country.

Section 5—Administration

5.1 Each Government will designate points of contact within their respective Ministry of Defence/Department of Defense, as well as within other relevant departments and agencies, for the purpose of carrying out those actions necessary to implement the MOU.

5.2. Each Government will designate representatives for its country to the Defense Equipment Rationalization Committee which will meet at agreed intervals to review progress in implementing the MOU. The representatives will discuss development, production and procurement needs of each country and the likely area of co-operation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the MOU. The agenda will be agreed upon and made final 30 days prior to the date set for the meeting.

5.3. A financial statement ("Annual US/UK Statement") of the current balance, and long term trends, of purchases between the two countries will be prepared on a basis to be mutually agreed. The Statements will be reviewed during the meetings referred to in 5.2 above. Both countries will submit their proposed financial statement to one another in final form 30 days prior to the meeting.

ANNEX II—MUTUAL ACCEPTANCE OF TEST AND EVALUATION

Introduction

1. In furtherance of the principles governing reciprocal defense purchasing, as defined in the subject Memorandum of Understanding (MOU) and in accordance with the Implementing Procedures for MOU (Annex I thereto), representatives of the US Department of the Defense (DoD) and the UK Ministry of Defense (MOD) have engaged in discussions and presentations on Test and Evaluation (T&E) in Defense procurement. The discussions were aimed at facilitating the implementation of the MOU by:

a. Bringing about a thorough, mutual understanding of the two governments' policies, organizations and procedures for T&E.

b. Identifying the main differences between the two governments' organizations and procedures for T&E.

c. Determining the actions required to overcome any difficulties arising from the identified differences, in order to assure complete mutual acceptability of T&E procedures.

2. The purpose of this Annex, is to record the concurrence reached by the two governments concerning the mutual acceptability of their respective T&E procedures for those systems that are developed in one country and are candidates for procurement by the other. Two categories of Defense systems are considered:

a. Those still under development.

b. Those for which development is complete.

Points of Concurrence

3. The objective is to avoid redundant testing. Neither government will duplicate tests where acceptable data is available from the other government's official test program.

4. Existing T&E organizations and procedures of both governments are adequate to satisfy the purposes of the MOU. Differences are not such as to justify changes being made to the present procedures of either government.

5. To achieve a more widespread understanding of the two governments' T&E organizations and procedures in the US D in the UK MOD, and in the Industries both countries, the two governments produce guidance information necessary meet the purpose of this Annex, includi

a. The relationship between their resp tive T&E organizations and procedures.

b. A US DoD-UK MOD communicatio matrix for initial contacts.

6. The focal point for all T&E aspects procurement relating to development te ing will be the US Program Manager or th UK Project Manager for the equipme being offered. For operational testing a pects, it will be the applicable US Service independent operational test agency and i the UK, the Project Manager.

Mutual Acceptance Procedures

7. All proposals for consideration of equipment of one country for procurement by the other will require a review of T&E data reflecting test conditions, test results and success criteria on a case-by-case basis. The following procedures will therefore be observed in all procurement considerations:

a. To facilitate the exchange of T&E data a common documentation format will be adopted. This format will be similar to the US Navy's Test and Evaluation Master Plan (TEMP) as outlined in OPNAV Instruction 3960.10.

b. For systems under development, the offering government will invite participation by the other early in the T&E program Should the other government not choose to participate in the testing, the offering Government, subject to its laws, established policies, procedures and regulations, and subject to privately owned proprietary rights, will arrange for the release to the other of information necessary for the purpose of such T&E.

c. For systems for which development is complete, the offering government will ensure, subject to its laws, established policies, procedures and regulations, and subject to privately owned proprietary rights, that all pertinent T&E data is made available to the other.

d. Should one government adjudge the T&E which has been completed or planned by the other to be inadequate for its procurement procedures, the two governments will decide by mutual agreement on any additional testing to be carried out. Such additional testing may be conducted by either country as mutually agreed. In addition before such additional testing commences concurrence will be reached by the two governments regarding payment of costs, allocation of resources, scheduling and the evaluation criteria which will apply.

e. When either government releases T&E data to the other, it is understood that, in the absence of any specific agreement to the contrary, such data is made available in confidence to the receiving government for the purpose of information and evaluation within such government and for no other use.

f. Each government will make data transmitted to the other with a legend that will indicate the country of origin and the conditions of release, that the data relates to this MOU, and that it is furnished in confidence. Where appropriate the security classification will be shown. Corresponding arrangements will be made for records of data transmitted orally.

g. Each government will make its best effort to protect data submitted in confidence by the other government. In the event of any request under domestic legislation to make available to the public such data furnished by the other government, the recipient government will take all legal steps available to it to withhold the data from disclosure.

8. In any case where agreement cannot be reached between the focal points or their Service superiors concerning the acceptability of T&E, or when it is felt that adequate data and information on T&E have not been provided, the matter will be referred to the appropriate higher authority. For the US this will be the Director Defense Test and Evaluation and for the UK this will be the appropriate Systems Controller.

ANNEX III—RECIPROCAL AUDITS AND CONTRACTS AND SUBCONTRACTS

I. General

The US/UK Memorandum of Understanding on Co-operation Arrangements envisages the need for detailed implementing procedures to be decided upon. This Annex deals with reciprocity in the handling of auditing activity related to contracts and subcontracts falling within the scope of the MOU.

The participating Governments recognize the mutual benefit of undertaking reciprocally for each other in their respective countries price proposal audits and contract cost audits in connection with the acquisition of defense equipment. As used in this Annex the term "audit" may include, but is not limited to, the following services including Field Pricing Support as appropriate to the contract or sub-contract concerned:

—Survey of contractor's capability;
—Pre-contract audit;
—Audit during contract performance;
—Audit after contract performance, e.g. termination, before payment of final price in respect of fixed price contract or cost type contract;
—Verification of compliance with requirements set forth by the purchasing government for accounting of contract costs or pricing;
—Verification after contract award of the currency, accuracy and completeness of data supporting a contractor's price proposal.

II. Purpose and Scope of Audits

The purpose of these audits will be to examine proposed or incurred costs and supporting date in sufficient detail to enable the cognizant contracting officer to determine their acceptability during negotiations with the relevant contractor or sub-contractor.

Audits peformed under the provisions of this Annex will cover all elements of the cost and identify profit amounts. The auditors will use to the fullest extent possible previously available data pertinent to the intended or actual contract or sub-contract.

III. Audit Agencies

The audits will be performed pursuant to the provisions of this Annex by the following agencies:

—For audits in the United States when requested by the United Kingdom Government, the Defense Contract Audit Agency (DCAA).
—For audits in the United Kingdom when requested by the United States Government, the Accountancy Services (AS (PE)) of the Ministry of Defence.

IV. Audit Request Procedures

Requests for audits will be transmitted as follows:

Requests by the United Kingdom Government:

—Cognizant Procuring Contracting Office for Acquisitions under U.S. Foreign Military Sales (FMS) procedures.
—The Director of Defense Contract Audit Agency, Cameron Station, Alexandria, Virginia 22314, for all other acquisitions.

Requests by the United States Government:

—Head of Contracts Policy, Procurement Executive, Ministry of Defence.

These requests will be transmitted with all the supporting documents and required format of the audit report.

V. Operating Rules

Before any relevant contract action commences, representatives of each Government will consult with one another as necessary to define the goals and the scope of the audits required.

The audits will pay regard to the Government accounting conventions applicable to the supplier's business and be performed in accordance with the terms of the contract or subcontract as required by the law and policy of the purchasing Government.

Each Government will accept auditing services performed on its behalf by the other as if it had performed those services itself as long as these reflect the particular or specific interest of the purchasing authority.

Each Government will make available to the other data pertinent to the relevant contract or sub-contract, including that associated with disclosed accounting practices, in support of the contracting officer's negotiation activity.

Applicable contracts or sub-contracts will invoke the provisions of this Annex.

Each audit report will respond to the question contained in the request for audit and will detail any problems encountered during the audit. The report should enable the contracting officer to evaluate independently the acceptability of the price proposals or costs.

Upon request of the contracting officer, additional information, supporting data, and explanations or clarifications will be provided to him or to his duly authorized representatives. The contracting officer will have the final authority to determine when adequate audit information has been provided for negotiation purposes.

Each Government will endeavor that in all possible cases its agencies will perform audits under the provisions of this Annex. If, due to extraordinary circumstances, a Government is unable to perform an audit, or to perform it in a reasonable time, the contracting country's agencies would have a right to perform the audit themselves.

VI. Protection of Information

Each audit report will be prepared by the audit agency and submitted in confidence. No report, or data therein will be disclosed to third parties unless the cognizant authorities of both parties and the audited supplier deem this to be appropriate. However, the contracting officer will normally release the final results of audits of sub-contractors to higher tier contractors for negotiation purposes. Specific information or extracts from the report may only be given to higher tier contractors in accordance with any directions or qualifications contained in the audit report.

Data obtained through the implementation of this Annex will receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which receives it.

VII. National Security

Access to classified information involving the national security of each country will be governed by the provisions of the MOU.

Annex IV—Concerning the Princi
Governing Logistic Support of the
fense Equipment

In implementing Section I, para 1.2
MOU, the two Parties shall be governe
the following:

1. When developing or procuring eq
ment, both Parties will agree upon the
for joint follow-on logistic support in a
such as configuration control, intercha
ability of spare parts/components, mai
nance, conversion, storage, and spare p
provisioning, etc.

2. Arrangements and procedures will
established concerning follow-on logis
support and other forms of logistic coop
tion, eg, joint utilization of facilities.

3. In the contracting procedure for logi
support, paragraph 1.3.7. of Section I of
MOU shall apply.

4. Both parties will issue directives
guidelines to their respective armament
logistics agencies to achieve their describ
goals of this MOU.

Annex V—Reciprocal Quality Assuran
Services

1. *Scope.* This Annex sets forth the ter
under which the participating Governme
shall provide one another with quality
surance services in support of Defense co
tracts and subcontracts contemplated or
ecuted under the Memorandum of Und
standing (MOU).

2. *Application.* Quality assurance servi
will be provided under this Annex free
charge, for all contracts, sub-contracts
FMS Letters of Offer and Acceptance
tered into on or after the date of the l
signature on this MOU.

3. Quality Assurance services will be pr
vided free of charge in accordance with t
procedures of STANAG 4107, not limited
the Reservations of the US and UK autho
ties presently entered in the STANAG.

4. *Designated Focal Points.*

a. Requests for Government Quality
surance (GQA) in UK shall be directed
DGDQA, QA/FP2A, Ministry of Defen
(PE), Building 2, Royal Arsenal (Wes
Woolwich SE18 6ST.

b. Requests for Government Quality
surance in US shall be directed to: Depa
ment of Defense Central Control Poi
DCASR New York, 201 Varrick Street, Ne
York, NY 10014-4811.

5. *Additional Information.* The reque
for GQA shall be on the forms described
Annex A to STANAG 4107, with the follo
ing information:

a. In Block 7, the type of equipme
which the material or service pertains
and the Armed Force (Army, Navy, or A
Force) that employees the equipment.

b. In Block 8, the desired services, if less than comprehensive support is needed.

c. In Block 10, address for correspondence if different from Focal Point.

6. *Protection of Information.* Data obtained through implementation of this Annex shall receive the same protection against unauthorized disclosure as such data would normally received under the laws and rules of the country which possesses it.

7. *Termination.* This Annex may be terminated in writing by either participant, to become effective after not less than one year from the date of notification.

T-203 NORWAY MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of Norway and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production and Procurement of Defense Equipment

Preamble

The Government of the United States of America and the Government of Norway hereinafter referred to as the Governments:

- Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production and procurement of defense equipment, in order to:

–Make the most cost-effective and rational use of the funds allocated to defense to the extent permitted by their national policies; and

–Promote the widest possible use of standard or interoperable equipment; and

–Develop and maintain an advanced technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Agreement;

- Noting that no general agreement covers harmonization of mutual procurements, although specific offset agreements have existed between them in the past; and
- Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding (MOU) sets out the guiding principles government mutual cooperation in defense equipment research and development, production and procurement.

The Government of the United States of America and the Government of Norway conclude this Memorandum of Understanding to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements among the individual member nations.

The two Governments agree that this Memorandum of Understanding should be incorporated in the large context of the cooperation between Europe and North America within the Alliance.

All agreements or the relevant provisions of such agreements between the Independent European Program Group (IEPG) and the United States of America shall take precedence over this Memorandum of Understanding, assuming Norway is a party to such agreements.

Article I—Principles Governing Reciprocal Defense Cooperation

1. Both Governments intend to achieve and maintain a long-term equitable balance in their exchanges, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies. Equitable balance, in principle, shall be achieved when the two Governments have exhausted all means at their disposal to maximize defense R&D cooperation and reciprocal procurement to the extent permitted by the size and nature of each country's technological and industrial base.

2. This agreement is intended to cover areas in which possible bilateral cooperation could be achieved in conventional defense equipment research and development, production and procurement, complementing the work of the Conference of National Armament Directors (CNAD) and the Independent European Program Group (IEPG).

3. The two Governments will, consistent with the laws, regulations, and practices having the force of law of each Government, give full consideration to all requests for cooperative R&D, to all requests for production and procurement which are intended to maximize Alliance standardization and/or interoperability.

4. The two Governments shall, in the spirit of cooperation, mutually determine the counting procedures that will apply to all items under this agreement (and associated services included in a contract) purchased either directly by the two Governments or through their relevant industries.

5. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, if possible, select qualified defense items that have been developed and produced in the other country to meet their requirements in accordance with the procedures of paragraph 9 below.

6. Each Government may propose to the other any particular item of equipment that

might be suitable for use by the other Government. Indicative lists are provided in the annexes.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate achievement of the aims described in paragraph 5.

8. Barriers to procurement or coproduction of an item of defense equipment that has been developed in the other country shall be removed, insofar as laws and regulations permit. This includes the removal of customs duties and other discriminatory levies as well as the waiver of protectionist provisions.

9. Normal competitive contracting procedures shall be used in acquiring items of conventional defense equipment developed in each other's country for use by either country's defense establishment.

10. Full consideration will be given to all qualified industrial and/or Government sources in each other's country consistent with the national procurement policy and criteria. It is therefore understood that items offered shall satisfy requirements for performance, quality, delivery and cost.

11. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

12. Each Government will ensure that the technical data packages (TDPs) made available under this MOU are not used for any purpose other than for the purpose of bidding on, and performing, a prospective defense contract without the prior agreement with those owning or controlling proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDPs be transferred to any third country or any other transferee without the prior written consent of the originating Government.

13. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries.

14. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this Memorandum of Understanding. Terms of
reference will be proposed for a Norwe
American Committee for Reciprocal
curement, including rules governing
work. The implementing procedures u
this Memorandum of Understanding s
be an integral part thereof.

2. The Under Secretary of Defense for
search and Engineering, in coordina
with the Assistant Secretary of Defense
International Security Affairs, the Assist
Secretary of Defense for Manpower,
serve Affairs and Logistics, the Director,
fense Security Assistance Agency, and ot
appropriate Department of Defense o
cials, will be responsible authority in
United States Government for the Devel
ment of implementing procedures un
this Memorandum of Understanding.

3. The Director General of Armaments
the Ministry of Defense will be the respon
ble authority of the Government of Norw
for any matter relating to the procedur
for implementing this Memorandum of U
derstanding.

Article III—Industry Participation

1. Each Government will be responsib
for calling to the attention of the releva
industries within its country the basic u
derstanding of this Memorandum of Unde
standing, together with appropriate impl
menting guidance. Both Governments w
take all necessary steps so that the indu
tries comply with the regulations pertainin
to security and to safeguarding classified i
formation.

2. Implementation of this Memorandu
of Understanding will involve full industri
participation. Accordingly, the Gover
ments will arrange to inform their respe
tive procurement and requirements offic
concerning the principles and objectives o
this Memorandum of Understanding. How
ever, primary responsibility for finding bus
ness opportunities in areas of research an
development and production shall rest wit
the industrial participants of each countr

Article IV—Security

1. To the extent that any items, plans
specifications or information furnishe
connection with the specific implementatio
of this Memorandum of Understanding ar
classified by either Government for securit
purposes, the other Government shall main
tain a similar classification and emplo
measures necessary to preserve such secur
ty equivalent to those measures employed
by the classifying Government throughout
the period during which the classifying
Government may maintain such classification.

2. The operating procedures for the imple
mentation of the General Security of Infor
mation Agreement dated 26 February 1970

between the United States Department of Defense and the Norwegian Ministry of Defense apply to activities under this Memorandum of Understanding.

Article V—Duration

1. This agreement will remain in effect for a ten-year period following its signing, unless otherwise agreed by both Governments.

2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this Memorandum of Understanding before the end of the ten-year period, written notification of its intention will be given to the other Government six months in advance of the effective date of discontinuance. Such notification of intent would be a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the Memorandum of Understanding may be terminated by the parties, any contract entered into consistent with the terms of this agreeement shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VI—Administration

1. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency.

2. Government representatives will meet as agreed or at the request of either Government to review progress in implementing the Memorandum of Understanding. They will discuss development, production and procurement needs of each country and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the Memorandum of Understanding.

3. An annual United States/Norway Statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two countries will be prepared on a basis to be mutually agreed. Such statements will take account of any United States-Norway offset agreements in force when the Memorandum of Understanding was signed, and will be reviewed during the meetings referred to in paragraph 2 above.

Article VII—Annexes

Annexes negotiated by the responsible offices and approved by the appropriate Government authorities will be incorporated in this Memorandum of Understanding and made an integral part thereof.

Article VIII—Implementation

1. The arrangements contained in this Memorandum of Understanding represent the understanding reached between the Government of the United States of America and the Government of Norway upon the matters referred to herein. Each Government must mutually agree to any amendment of this Memorandum of Understanding.

2. This agreement, in two original texts in the Norwegian and English languages, both texts being equally authentic, will come into effect at the date signed by both Governments.

For the Government of Norway, the Minister of Defense.

ROLF HANSEN.

For the United States Government, the Secretary of Defense.
Date May 19, 1978.

HAROLD BROWN.

Date May 19, 1978.

Annex 1

I. Introduction

On 19 May 1978 the Governments of the United States (US) and Norway signed a Memorandum of Understanding (MOU) relating to "The Principles Governing Cooperation in R&D, Production and Procurement of Defense Equipment." The purpose of this document is to set forth the agreed implementing procedures for carrying out the MOU.

II. Major Principles

A. The US Department of Defense (DoD) and the Ministry of Defence of Norway (MOD) will each consider for their defense requirements qualified defense items (and associated services included in a procurement contract) developed or produced in the other country. (See also Paragraph III of this Annex). MOD and DoD will also identify to one another, as soon as possible, those practices of their respective countries having the force of law that may potentially restrict the fulfillment of the Memorandum of Understanding and this Annex.

B. It will be the responsibility of government and/or industry representatives in each country to obtain information concerning the other country's proposed developments and purchases and to respond to requests for proposals. However, the responsible governmental purchasing agencies in each country will assist sources in the other country to obtain information concerning proposed purchases, necessary qualifications and appropriate documentation.

III. Action

In implementing the MOU, DoD and MOD will review and, where considered necessary revise policies, procedures and regulations to ensure that the principles and objectives of this MOU, which are intended to be compatible with the broad aims of NATO Rationalization/Standardization, are taken into account. The DoD and the MOD agree that having taken the measures listed below, they will have fulfilled their obligation under Paragraph 1, Article I, of the MOU, to exhaust all means at their disposal to maximize defense R&D cooperation and reciprocal procurement. These measures will be utilized in a reasonable manner recognizing among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process, and requirements attendant to ensuring free and full competition for the award of contracts.

A. Ensure that their respective requirements offices are familar with the principles and objectives of this MOU.

B. Ensure that their respective research and development offices are familiar with the principles and objectives of this MOU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

D. Ensure wide dissemination of the basic understanding of this MOU to the respective defense industries.

E. Ensure that, consistently with national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such offers, either price differentials under buy-national laws and regulations or the cost of import duties. Provisions will be made for duty-free entry certificates and related documentation.

F. Assist industries in their respective countries to identify and advise the other government of their capabilities and assist such industries in carrying out the supporting actions to maximize industrial participation.

G. Review defense items submitted as candidates for respective requirements. Identify requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to participate in the development or production procurement process.

H. Make best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries.

I. Ensure that those items excluded from consideration under this MOU for reasons of protecting National requirements such as the maintenance of a defense mobilization base are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items, as well as those items which would not qualified as a defense item under this M because of legally imposed restrictions procurement from non-national sour should be identified as soon as possibl lists drawn up by MOD and OSD for t respective countries, and that the posi should be kept under review at this level.

J. Ensure that the balance of recipr purchasing within the areas of this M takes into consideration the levels of te nology involved, as well as the contract value.

K. Both DoD and MOD will from time time arrange visits by relevant personnel the other country in order to actively plore possibilities for R&D cooperation a procurement.

IV. Counting Procedures

The purchases to be counted against t goals of the MOU will be identified jointl by DoD and MOD. In principle: (1) All item procured by the overseas Base Exchange and Commissary Operations for resale overseas shall be counted and (2) all defens items and associated services included in procurement contract) purchased by DoD and MOD from the other country will b counted against the goals of the MOU a long as such purchases meet the followin criteria:

A. Direct purchases by the MOD or DoD including their respective agencies, fro one another.

B. Direct purchases by either the MOD o DoD from the industry of the other country.

C. Purchases by industry from the government or industry of the other country in ai of government defense contracts.

D. Purchases by a third country government from the governments of the Unite States or of Norway or from industries o the two countries as a direct result of efforts of the other (non-supplying) country.

E. Purchases resulting from common funded defense projects to which the United States and/or Norway are contributors, to be credited in proportion to each country's financial contribution to the project, and to work carried out in each country. The extent to which such purchases will be counted against the goals of the MOU will be agreed between MOD and DoD in each case.

F. License fees, royalties and other associated income resulting from orders placed by industry and/or DoD or MOD with a licensed company in the other country.

V. Administration

A. Each country will designate points of contact at the Ministry of Defence level and in each purchasing service/agency.

B. Country representatives will meet at agreed intervals to review progress in implementing the MOU. They will discuss development, production and procurement needs of each country and the likely areas of cooperation; agrees to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the MOU.

C. An annual United States/Norway Statement of the current balance and long-term trends, of purchases between the two countries will be prepared on a basis to be mutually agreed. Such statement will take account of any United States-Norway Offset agreements in force when the MOU was signed, and will be reviewed during the meetings referred to in B. above.

D. Quality Assurance procedures outlined in STANAG 4107 and 4108 will apply unless other provisions are mutually agreed to on any specific contract. Reimbursement for services provided shall be afforded in accordance with the National laws and regulations of each country.

United States Government.

For the Government of Norway.

Annex III—Reciprocal Quality Assurance Services Under the Memorandum of Understanding Between the United States and the Government of Norway Regarding Defense R&D, Production, and Procurement

I. *Preamble*

This annex sets forth the terms, conditions and procedures under which the participating governments shall provide one another with quality assurance services in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). The procedures of STANAG 4107 and AQAP 10 shall apply as supplemented by this annex to the extent consistent with the laws of both governments.

If special quality assurance arrangements are made for international cooperative projects in which the United States and Norway participate, those special arrangements shall have precedence over this annex. Purchases by Norway under the Foreign Military Sales (FMS) Program will be handled under U.S. FMS procedures in existence at the time of acceptance of the FMS agreement. Normally, FMS purchases will be afforded the same quality assurance that is provided for similar DoD procurements for use by the U.S. DoD. Similar provisions will apply, to be changed, if necessary, to U.S. Government purchases from the Norwegian Government.

The objective of this annex is to insure each participating government is able to employ the most effective and efficient quality assurance support possible when acting under this MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

II. General

A flexible arrangement is envisioned under which a purchasing government may, on a case-by-case basis, request full quality assurance support as described in AQAP-10 or, alternatively, request specified services listed in AQAP 10 as it considers appropriate to the circumstances, for the purchase of defense items made outside of government-to-government channels. The purchasing government may elect to perform other necessary services through its own on-site representative and will inform the host government in such cases, in order to avoid duplication of the work performed by the host government. The purchasing government may modify a request for support during contract performance after consultation with the host government.

The participating governments shall accept requests for services to the extent resources are available and carry them out according to the procedures each government uses for its own contracts.

Contracts shall contain suitable provisions for the host governments to act for and on behalf of the purchasing government and shall authorize assets as necessary for the performance of quality assurance service, and include the appropriate contractual quality requirement imposed on the contractor, if applicable.

Where representatives of both participating governments deal with a contractor at the same location in support of the same or separate contracts, they shall operate in full concert according to terms of reference mutually agreed or to be agreed upon.

The participating governments shall each designate a single office to receive requests for quality assurance services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each participating government may elect to designate an office in or near the other participating country to act as focal point through which requests for quality assurance will be forwarded. The host government will endeavor to keep the purchasing Government's focal point apprised of current quality assurance practices and resources to help insure that requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirement and clarify requests for services as necessary.

III. Procedures

Requests for government quality assurance in Norway shall be directed to: Forsvarets felles Materielltjeneste, Oslo Mil/Loren, 00180 Oslo 1.

Requests for government quality assurance in the United States shall be directed to: Department of Defense Central Control Point, DCASR New York, 201 Varick Street, New York, New York 10014-4811

The format for request for quality assurance shall be as described in Annex A to STANAG 4107, with the following additional information:

—in block 7, the type of equipment which the material or spare parts pertain to, and the Armed Forces (Army, Navy, and Air Force) that employs the equipment;

—in block 10, desired services, if less than comprehensive support is needed.

The request shall reference STANAG 4107 and this annex to the MOU, and shall be processed according to the procedures in the STANAG. Acceptance or rejection shall be made within 45 calendar days of receipt by the performing government. The STANAG procedures shall be followed in regard to notifying the purchasing office of unsatisfactory conditions, processing deviations and waivers, and issuing certificates of conformity.

Direct communications between the purchasing office and the assigned quality assurance office are authorized and encouraged in resolving contract problems. The purchasing government shall retain final authority over contract interpretations and enforcement actions, and shall advise the quality asssurance office in a timely fashion on such matters as needed.

In the event the purchasing government envisions the assignment of on-site representatives, proposed terms of reference describing an appropriate working relationship with host government representatives will be suggested to the host government as early as possible.

IV. Responsibility and Liability

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex on behalf of the other Government.

V. Protection of Information

Data obtained through implementation of this annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possess it.

VI. Charges

Services will be provided under this ann free of charge, for all contracts, subco tracts, and FMS Letters of Offer and A ceptance entered into on or after the date implementation of this annex, provided th a joint review of the services being e changed between the participating govern ments performed at not less than three yea intervals indicates that general reciprocit is being maintained. If, as a result of such joint review, either government determine that charges will be necessary, they may b imposed for future services after not les than one year advance notice. Shoul charges by the United States become necessary, Foreign Military Sales procedure then in effect will apply.

VII. Duration

This annex will remain in effect for a period as set forth in Article VII of the MOU, and may be terminated under the conditions as set forth in that Article.

VIII. Validity of Text

The English language and Norwegian language versions of this text have equal validity.

IX. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America

____

For the Government of Norway

____

Date: October 28, 1986.
Date:

T-204 NETHERLANDS MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of the Kingdom of the Netherlands and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production and Procurement of Defense Equipment

Preamble

The Government of the United States of America and the Government of the Kingdom of the Netherlands, duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the fields of research and development, production and procurement in order to:

—Make the most cost-effective and rational use of the resources available for defense,

—Ensure the widest possible use of standard or interoperable equipment,

—Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding (MOU), and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment, and

Recalling that they had agreed, as members of the Alliance, to maximum cooperation in procurement as set forth in Annex A to NATO Document C-M(73)51 (revised), dated 20 August 1973,

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research and development, production and procurement of conventional defense equipment.

The two Governments conclude this MOU to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent Europe Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements. They therefore agree that in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this MOU, the parties hereto will consult with a view to amending this MOU.

The two Governments further agree that this MOU should be viewed in the larger context of the cooperation between Europe and North America within the Alliance and that this cooperation will be carried out pursuant to the Mutual Defense Assistance Agreement between the Government of the United States of America and the Government of the Kingdom of the Netherlands, signed 27 January 1950.

Article I—Principles Governing Reciprocal Defense Cooperation

1. Both Governments intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation.

2. This MOU is intended to cover areas in which possible bilateral cooperation could be achieved in research and development, production and procurement of conventional defense equipment, complementing the work of the Conference of National Armament Directors (CNAD) and the Independent European Program Group (IEPG).

3. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Alliance.

4. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, to the extent possible, adopt qualified defense items that have been developed or produced in the other country to meet their requirements. Defense items or services are those items or services which may be procured utilizing appropriated funds of the U.S. Department of Defense or budgeted funds of the Netherlands Ministry of Defense.

5. The two Governments shall mutually determine the counting procedures to be laid down in an Annex to this MOU that will apply to all defense items and defense services purchased by them directly or through their relevant industries under this MOU.

6. Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organization to facilitate achievement of the aims of this MOU.

8. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each other's country for use by either country's defense establishment.

9. The detailed implementing procedures, to be agreed, will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals will be evaluated without applying price differentials under buy national laws and regulations and without applying the costs of import duties;

b. Full consideration will be given to all qualified industrial and/or governmental resources in each other's country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government for performance, quality, delivery and costs.

10. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective

industries to qualify for eligibility and submit a bid for proposal.

11. Each Government will ensure that the technical data packages (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on, and performing, a prospective defense contract without the prior agreement of those owning or controlling proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent of the originating Government.

12. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights.

13. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU and the terms of reference for a Netherlands-U.S. Committee for Procurement Cooperation.

2. The Under Secretary of Defense for Research and Engineering, in cooperation with the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, the Director, Defense Security Assistance Agency, and other appropriate Department of Defense officials, will be the responsible authority in the United States Government for the development of implementating procedures under this MOU.

3. The Director General for Materiel in the Ministry of Defense, in cooperation with other appropriate government authorities, will be the responsible authority of the Government of the Netherlands for the development of the implementing procedures under this MOU.

Article III—Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its territory the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industries in each nation.

Article IV—Security

To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this MOU are classified by either Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classifications.

Article V—Administration

1. The Netherlands-U.S. Committee for Procurement Cooperation, referred to in Article II above, will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss research and development, production and procurement needs of each nation and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the MOU.

2. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency under the Ministries of Defense.

3. An annual United States-Netherlands statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two nations will be prepared on a basis to be mutually agreed. Such statement will take account of United States-Netherlands purchases of defense equipment and services and related offset agreements effected in the years from 1973 onwards and will be periodically reviewed.

Article VI—Annexes

Annexes negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this MOU.

Article VII—Duration

1. This MOU will remain in effect for a ten-year period and will be extended for successive five-year periods, unless the Governments mutually decide otherwise.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, and contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

3. The Parties hereto agree that, for the purposes of this MOU, references to the Kingdom of the Netherlands shall apply only to its territory in Europe.

Article VIII—Implementation

This MOU will come into effect on the date of the last signature.

For the Government of the Kingdom of the Netherlands.

WILLEM SCHOLTEN,
The Minister of Defense.

Dated: August 24, 1978.

For the Government of the United States of America.

HAROLD BROWN,
The Secretary of Defense.

Dated: July 25, 1978.

ANNEX I—PRINCIPLES GOVERNING IMPLEMENTATION

1. Introduction

On 24 August 1978, the Governments of the United States and the Kingdom of the Netherlands signed a Memorandum of Understanding (MoU) relating to the principles governing mutual cooperation in research and development, production and procurement of defense equipment. This document sets forth the agreed implementing procedures for carrying out the MOU.

2. Major Principles

A. The U.S. Department of Defense (DoD) and the Ministry of Defense of the Netherlands (MoD) will consider for their defense requirements qualified defense items and services developed or produced in the other country.

B. It will be the responsibility of government and/or industry representatives in each country to acquire information concerning the other country's proposed research, developments, and purchases and to respond to requests for proposals in accordance with the prescribed procurement procedures and regulations. However, the responsible government agencies in each country will assist sources in the other country to obtain information concerning, intended research and development, proposed purchases, necessary qualifications and appropriate documentation.

3. Action

DoD and MoD will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of this MOU, which are intended to be compatible with the broad aims of NATO Rationalization/Standardization, are taken into account. DoD and MoD agree that the following measures shall be taken, recognizing that among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process, are considerations related to insured free and full competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MoU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MoU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MoU.

D. Ensure wide dissemination of the basic understanding of this MoU to their respective industries producing and/or developing defense items and/or services.

E. Ensure that, consistent with national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such offers, either price differentials under buy-national laws and regulations, or the cost of import duties. Full consideration will be given to all qualified industrial and/or governmental sources in each other's country. Provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulation permit.

F. Assist industries in their respective countries to identify and advise the other government of their production capability and assist such industries in carrying out the supporting actions to maximize industrial participation.

G. Review defense items and requests for services submitted by the other country as candidates for respective requirements. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research and development production and procurement processes.

H. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes.

I. Ensure that those items and services excluded from consideration under this MoU for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MoU because of legally imposed restrictions on procurement from non-national sources, be identified as soon as possible by the MoD and the DoD, and that such defense items and services be kept under review at this level.

J. Insure that the balance of reciprocal purchases takes into consideration the levels of technology involved, as well as the monetary value of purchase hereunder.

k. DoD and MoD will from time to time arrange visits in order to actively explore possibilities for cooperation on research and development, procurement, and logistical support.

4. Counting Procedures

The following purchases, to be identified jointly by DoD and MoD will be included in the counting procedures:

A. Purchases of items and services funded from appropriate funds of the U.S. Department of Defense or budgeted funds of the Netherlands Ministry of Defense and which, either/are:

(1) Directly purchased by the MoD or DoD from one another; or

(2) Directly purchased by the MoD or DoD from the industry of the other country; or

(3) Purchased by the industry of one country from the Government or industry of the other country; or

(4) Purchased as a result of jointly funded defense projects to which the United States and the Netherlands are the only contributors to be credited in proportion to each other country's financial contributions to the project, and to work carried out in each country. The extent to which such purchases will be counted against the goals of the MoU will be agreed upon between MoD and DoD in each case;

(5) License fees, royalties and other associated income, when separately contracted, by industry and/or DoD or MoD with a licensor in the country.

B. Purchases by the MoD or DoD from the industry of the other country, on half of other governmental departments and agencies.

C. Purchases by a third country go
ment from the MoD or DoD or from i
tries of these two countries as direct
of the efforts of the government of
other country.

5. Administration

A. Each government will designate p
of contact (procurement and logistics
the Ministry of Defense level and in
purchasing service/agency and major a
sition activity.

B. Quality Assurance procedures outl
in STANAG 4107 and 4108 (subject to
USG reserve concerning reimbursem
will apply, unless other provisions are m
ally agreed to on any specific contract.
imbursement of services provided shall
afforded in accordance with the natio
laws and regulations of each country.

C. The terms of reference of the Net
lands/United States Committee of Proc
ment Cooperation is contained in Annex

For the Government of the United Sta
of America.

DR. WILLIAM J. PERRY

Dated: December 22, 1978.

For the Government of the Netherlands

LT. GENERAL HENSE

Dated: December 22, 1978.

(Appendices to Annex 1 not included.)

ANNEX II--PRINCIPLES GOVERNING LOGIST
SUPPORT OF COMMON EQUIPMENT

In implementing Article I, para 13, of
MoU, the two Parties shall be governed
the following:

1. When developing or procuring defe
equipment, both Parties will agree upon
basis for joint follow-on logistic support
areas such as configuration control, in
changeability of spare parts/compone
maintenance, conversion, storage, and sp
parts provisioning, etc.

2. Arrangements and procedures will
established concerning follow-on logi
support and other forms of logistic coop
tion, e.g., joint utilization of facilities.

3. In the contracting procedure for logi
support, paragraph 9 of Article I of
MoU shall apply.

4. Both Parties will issue directives
guidelines to their respective armament
logistics agencies to achieve the descri
goals of this MoU.

For the Government of the United Sta
of America.

DR. WILLIAM J. PERRY

Dated: December 21, 1978.

For the Government of the Netherlands

LT. GENERAL HENSE

Dated: December 21, 1978.

ANNEX III—TERMS OF REFERENCES

1. The Netherlands/U.S. Committee for Procurement Cooperation (hereafter to be called "the Committee") will serve, under the direct responsibility of the authorities, listed in Article II sub 2 and 3 of the MoU respectively, as the main body in charge of the adequate implementation of the MoU.

2. In particular, the Committee will be responsible for ensuring that the guiding principles of the MoU governing the mutual cooperation in research and development, production, procurement and logistic support of conventional defense equipment are being implemented to facilitate a mutual flow of defense equipment. To this end the Committee will meet as required, but not less than annually, to review progress in implementing the MoU. In this review:

A. They will discuss research, development, production, procurement and logistic support needs of such country and the likely areas of cooperation including joint activities in those fields.

B. They will exchange information as to the way the stipulations of the MoU have been carried out and, if need be, prepare proposals for amendments of the MoU and/or its annexes.

C. They will agree to the financial statement of the current balance, give guidance for its yearly preparation and formulate conclusions from it, such conclusions to include any long term trends which may be established.

D. They will consider any other matters relevant to the MoU.

E. They will report after each meeting and advise as appropriate.

F. The Committee will alternately meet in the United States and in the Netherlands. The country in which a particular meeting will take place will provide the Chairman and the secretariat for that meeting.

For the Government of the United States of America.

DR. WILLIAM J. PERRY.

Dated: December 21, 1978.

For the Government of the Netherlands.

LT. GENERAL HENSEN.

Dated: December 21, 1978.

ANNEX IV TO MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION AND PROCUREMENT OF DEFENSE EQUIPMENT, SIGNED AT THE HAGUE ON 24 AUGUST 1978

Principles Governing Contract Administration Services

I. Introduction

This annex sets forth the terms, conditions, and procedures under which the governments will provide each other with selected contract administration services and related information in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this annex and the laws of either government, the laws shall prevail.

II. Major Principles

The objective of this annex is to insure each government is able to employ the most effective and efficient contract administration support possible when acting under the MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

For the purpose of this annex, contract administration shall include all those necessary actions, other than contract pricing and audit, to be accomplished at, or in proximity to, a firm's place of business to assist the purchasing office in evaluating a prospective contractor's capabilities and in monitoring and enforcing awarded contracts. This annex supplements NATO Standardization Agreement (STANAG) 4107, hereby incorporated by reference in regard to reciprocal quality assurance.

III. General

The purchasing government may request specific services and information selected from those listed in Appendix 1 to this annex which it considers appropriate to the circumstances. The purchasing government may elect to obtain additional support through its own on-site representatives provided there is no duplication of work performed by the host government. In addition, the host government will use its best efforts to supply information requested by the purchasing government but not listed in this annex when necessary to support contract award, enforcement, or termination. The purchasing government may modify a request for support during contract performance after consultation with the host government.

The host government shall accept requests for services to the extent resources are available and carry them out according to the procedures that government uses for its own contracts.

Contracts shall contain suitable provisions for the host government to act for and on behalf of the purchasing government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of either government deal with a contractor at the same location in support of the same contract or separate contracts, they shall act in full concert according to terms of reference mutually agreed or to be agreed upon.

Each government shall designate a single office to receive requests for contract administration services. In addition, each government may elect to designate an office in or near the other's country to act as a focal point through which requests for support will be forwarded. The host government will endeavor to keep the purchasing government's focal point apprised of current contract administration practices and resources to help insure requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirements and clarify requests for services as necessary.

IV. Procedures

Requests for contract administration in The Netherlands shall be directed to the Ministry of Defense, Directorate-General Materiel. Procurement Policy Office. Kalvermarkt 32. P.O. Box 20701 2500 ES THE HAGUE The Netherlands. Requests for contract administration in the United States shall be directed to The Department of Defense Central Control Point, DCASR New York, 60 Hudson St., New York, NY 10013.

Contract administration requests will be accompanied by the number of copies of the request for proposal or awarded contract, as appropriate, prescribed in STANAG 4107 and will specify the contract administration services desired. Every effort will be made to forward support requests simultaneously with the forwarding of awarded contracts to the contractor. The format shall be as described in Annex A to STANAG 4107, with desired services other than quality assurance specified in Block 10. If less than comprehensive quality assurance is needed, the desired services selected from AQAP 10 shall be specified in Block 10. Requests shall reference this annex to the MOU and shall be processed according to the procedures in STANAG 4107 with due regard to section VII of this annex. In principle, accept or rejection shall be made within 30 ca dar days of receipt by the host governm

Direct communications between the chasing office and the assigned contract ministration office in resolving cont problems are authorized and encourag The purchasing government shall ret final authority over contract interpreta and enforcement actions, and shall adv the contract administration office on su matters as needed.

In the event the purchasing governm envisions the assignment of inplant rep sentatives, proposed terms of reference scribing an appropriate working relati ship with host government representati will be suggested to the host government early as possible.

V. Responsibility and Liability

Nothing in this annex shall relieve t contractor of any responsibilities under th contract. No liability will attach to the go ernment, its officers or agents, acting unde this annex on behalf of the other gover ment.

VI. Protection of Information

Data obtained through the implementa tion of this annex shall receive the sam protection against unauthorized disclosur as such data would normally receive unde the laws and rules of the country which po sesses it.

VII. Charges

Service provided under this annex will b free of charge, subject to a joint review o the services being exchanged at not les than three year intervals. If, as a result o such a joint review, either government de termines that charges will be necessary they may be imposed after not less than one year advance notice. Should charges by the U.S. Government become necessary, For eign Military Sales Procedures then i effect will apply.

VIII. Duration

This annex will remain in effect for period as set forth in ARTICLE VII of the MOU, and may be terminated under the conditions as set forth in that article.

IX. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the Kingdom of the Netherlands.

—— ——,

Date 9th April 1982.

For the Government of the United States of America.

——— ———,

Date 9 April 1982.

Appendix 1. Services to be Exchanged.

APPENDIX 1 TO ANNEX IV—SERVICES TO BE EXCHANGED

In accordance with the principles and procedures as set forth in this annex the following services will be performed by the host government within its national boundaries upon requests by and on behalf of the purchasing government:

1. Support evaluations of contractor capabilities prior the award.

a. Supply available information concerning design, production, and quality control capabilities as appropriate; for example, the amount of available floor space, plant equipment, skilled and unskilled workers, past production of similar items, and the NATO Allied Quality Assurance Publications (AQAP's) against which the firm has been assessed.

b. Evaluate the financial strength of the prospective contractor, estimate the likelihood that financial resources will be sufficient to accomplish the contract, and report the monetary value (in local currency) of host government capital assets furnished or made available to the contractor which may be used in the contract.

c. Provide access to available accounting system disclosure statements and assistance in determining the systems's ability to meet contractual requirements.

2. Perform government quality assurance, as defined in STANAG 4107, in whole or in part as requested.

3. Report potential or actual slippages in contract delivery schedules or any other contractor difficulties which might affect contract performance.

4. Assess contract progress if needed by the purchasing office to authorize financial payments, and recommend approval or disapproval of contractor payment requests.

5. Evaluate the feasibility and practicality of contractor production plans.

6. Verify contractor management reports furnished to the purchasing office during contract performance.

7. Evaluate and monitor contractor compliance with contract requirements governing technical data, especially the propriety of any restrictive markings on data offered for delivery under the contract.

8. Monitor contractor costs under cost reimbursement contracts, and insure the purchasing office is advised of any anticipated overruns or underruns of estimated costs.

9. Advise the purchasing office if supporting contract administration is needed at subcontractor plants to verify the adequacy of prime contractor management, and assist the purchasing government obtain desired support within the host country.

ANNEX V TO MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION AND PROCUREMENT OF DEFENSE EQUIPMENT, SIGNED AT THE HAGUE ON 24 AUGUST 1978

Protection of Information

The Security Procedures For Industrial Operations Between The Ministry of Defense of the Netherlands and the Department of Defense of the United States of America, developed to implement the provisions of the U.S./Netherlands General Security of Information Agreement, dated April 6, 1981, apply to the safeguarding of classified military information exchanged under this Memorandum of Understanding.

Such procedures are applicable in those cases in which contracts, subcontracts, precontract negotiations, or other government approved arrangements, involving classified military information of either or both governments, are placed or entered into by or on behalf of one government with industry in the country of the other government.

For the government of the Kingdom of The Netherlands.

——— ———,

Date 9th April 1982.

For the Government of the United States of America.

——— ———,

Date 9 April '82.

ANNEX VI TO MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION AND PROCUREMENT OF DEFENSE EQUIPMENT, SIGNED AT THE HAGUE ON 24 AUGUST 1978

Principles Governing Defense Contract Audit Services

I. Introduction

This annex sets forth the terms, conditions and procedures under which the participating governments will provide one another with contract audit defense services upon request in support of defense contracts, subcontracts and FMS Letters of Offer and Acceptance contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this annex and the laws of either participating government, the laws shall prevail. Nothing in this annex affects the U.S. Government's statutory rights concerning access to records of its contractors.

II. Major Principles

For purposes of this annex, defense contract audit services shall include:

1. Evaluating proposed prices or costs in sufficient detail to enable the cognizant contracting officer to determine their acceptability during negotiations with the relevant contractor or subcontractor.
2. Examining contractor accounting records and procedures to determine their accuracy, currency, completeness, and compliance with contract requirements.
3. Evaluating contractor cost estimating systems.
4. Verifying after contract award the currency, accuracy, and completeness of cost or pricing data submitted in support of contractor proposals.
5. Verifying reimbursement vouchers submitted under cost reimbursement contracts or other contracts with cost reimbursement features (e.g., material reimbursement) and recommending cost disallowances when appropriate after consultation with the contractor.
6. Monitoring compliance with disclosed accounting practices and contractual accounting requirements during contract performance.
7. Verifying overhead cost records prior to overhead settlements, and contract cost records prior to termination settlements.
8. Other audit services as considered necessary by contracting country.

The objective of this annex is to improve the effectiveness and efficiency of the audit services available to the participating governments. Nothing in this agreement is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

III. General

Contract audit reports shall be advisory. The purchasing government shall retain authority and responsibility for negotiating acceptable prices and contract settlements with contractors. Purchases by The Netherlands under the Foreign Military Sales Program will be handled under the U.S. FMS procedures in existence at the time of acceptance of the FMS agreement.

The particular governments shall perform requested services to the maximum extent permitted by available resources and according to the terms of the contract or subcontract involved. The Netherlands agrees to use US cost principles when performing an audit for the U.S. The Netherlands also agrees that the US will use its own cost principles and cost accounting standards when performing an audit for The Netherlands. Consistent with these standards and principles the performing government may use the same audit methods it customarily uses for its own contracts, and shall determine the organizations and personnel to be involved.

In the event a particular government is unable to provide requested services, or to perform them within a reasonable time, the purchasing government shall be entitled to perform the needed services itself. Audit representatives of the governments may attend the audit activities as observer, when the contract is only for that country's requirements. In addition, with advance notice to the other participating government, the purchasing government may elect to audit a specific contractor/subcontractor proposal or a specific contract. Neither participating government shall duplicate or review the work of the other on any particular proposal or contract except under the circumstances set out above. However, the governments shall hold periodic discussions to evaluate the operational effectiveness of the reciprocal agreement. In addition, each government shall insure that its contract audit operations are periodically evaluated by its own appropriate review and oversight organization.

The participating governments shall provide one another with access to available information concerning contractor costs estimating systems and disclosed accounting practices when needed to support contract negotiations or enforcement. It is expected that contracts requiring the disclosure of accounting practices shall normally authorize contractors to file such disclosures with their own government. In the United States, the files shall be maintained by: the Office administering the contract.

In The Netherlands, the files shall be maintained by: The Ministry of Defense, Director Audit Agency, Postbus 20701, 2500 ES, The Hague, The Netherlands.

Contracts and subcontracts shall contain suitable provisions to enable the participating governments to act for and on behalf of one another under this annex and shall authorize access to contractor facilities and records as necessary.

Recognizing that requests for support and contract terms may occasionally require clarification, each of the participating governments may designate an office in or near the other participating country to provide such clarifications and to act as a focal point through which requests for services will be forwarded. Each participating government shall also designate an office, listed elsewhere in this annex, to receive requests for services.

IV. Procedures

Requests for contract audit services in The Netherlands shall be sent to: The Ministry of Defense, Director Audit Agency, Postbus 20701, 2500 ES, The Hague, The Netherlands, through: The Royal Netherlands Embassy, 4200 Linnean Avenue, Washington, D.C. 20008-3896, U.S.A.

Requests for contract audit services in the United States shall be sent to: The Defense Contract Audit Agency (DCAA), Cameron Station, Alexandria, Virginia 22314, U.S.A.

In order that the equity of this annex may be periodically appraised, information copies of all requests for audit made by procurement officials, auditors, and prime and subcontractors of both countries will be sent to Defense Contract Audit Agency, European Branch Office, Lindsey Air Station, APO New York 09633.

Requests shall specify the services needed, identify any items of special interest to the purchasing government, and indicate the desired due date. Acceptance of requests shall be acknowledged in writing by the performing government. Requests originating from the Office of the Comptroller General of the United States shall be clearly identified as such.

Contract audit reports describe the scope and depth of the evaulation performed and indicate the methods used. Supporting evaluations by technical and other specialists shall be included in the reports. The information supplied should be sufficiently detailed to permit the purchasing government to determine acceptable prices or costs and to defend its position in negotiations with the contractor or in taking contractual action. The purchasing government may request additional clarifications or supporting data if necessary, and shall have the final authority to determine when the information provided is adequate for its purpose.

V. Protection of Information

Information obtained through the implementation of this annex shall receive the same protection against unauthorized disclosure as it would normally receive under laws and rules of the participating government which possesses it.

VI. Charges

Services will be provided under this annex free of charge, for all contracts, subcontracts, and FMS Letters of Offer and Acceptance entered into on or after the date of implementation of this annex provided that a joint review of the services being exchanged between the participating governments performed at not less than three year intervals indicates that general reciprocity is being maintained. If after such joint review either government determined that charges will be necessary, they may be imposed after not less than one year advance notice. Should charges by the U.S. Government become necessary, Foreign Military Sales procedures then in effect will apply.

VII. Exclusions

This audit annex does not cover audits for architecture and engineering, base support, banking, operation and maintenance, government owned and company operated facilities, universities, and contractors solely in the business of supporting U.S. presence in The Netherlands.

VIII. Duration

This annex will remain in effect for a period as set forth in aticle VII of the MOU and may be terminated under the conditions as set forth in that article.

For the Government of the United States of America.

——— ———,

Dated: April 18, 1985.

For the Government of the Kingdom of The Netherlands, on behalf of the Director General for Material.

——— ———,

Dated: March 14, 1985.

T-205 FEDERAL REPUBLIC OF GERMANY MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Federal Minister of Defense of the Federal Republic of Germany and the Secretary of Defense of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production, Procurement and Logistic Support of Defense Equipment

The Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany:

Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production, procurement and logistic support of defense equipment, in order to:

—Make the most cost-effective and rational use of the resources allocated to defense; and

—Promote the widest possible use of standard or interoperable equipment; and

—Develop and maintain an advanced technology capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding; and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in conventional defense equipment research and development, production, procurement and logistic support.

The Parties hereto conclude this Memorandum of Understanding to strengthen the North Atlantic Alliance. In so doing, the Parties are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements among the individual member nations. They therefore agree that in the event of a possible conflict between understandings entered into between the IEPG and the Government of the United States, and this Memorandum of Understanding, the Parties hereto will consult with a view to amending this Memorandum of Understanding.

The Parties further agree that this Memorandum of Understanding should be viewed in the larger context of the cooperation between Europe and North America within the Alliance.

Article 1—Principles Governing Mutual Defense Cooperation

1.1 Both Parties intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation.

1.2 This Memorandum of Understanding is intended to cover areas in which, in the view of both parties to the Agreement, bilateral cooperation could be achieved in conventional defense equipment research and development, production, procurement and logistic support. This cooperation is intended to complement the work of the Conference of National Armament Directors (CNAD) and the Independent European Program Group (IEPG).

1.3 Each Party may propose to the other any particular project that might be suitable for cooperation or for use by the other Party.

1.4 Both Parties will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production, procurement and logistic support
which are intended to optimize Al
standardization and/or interoperabilit

1.5 In the interests of standardiz
within the Alliance and the effective u
tion of scarce resources, both Parties
to the extent possible, select qualifie
fense items that have been developed
produced in the other country to meet
requirements. Necessary decisions shou
taken on the basis of joint compar
trials according to criteria to be jointl
tablished.

1.6 Both Parties will review items
mitted as candidates for respective req
ments. They will indicate requirements
proposed purchases in a timely fashio
ensure adequate time for their respectiv
dustries to qualify for eligibility and
submit a bid or proposal.

1.7 Both Parties will provide appropr
policy guidance and administrative pr
dures within their respective defense
curement organizations to facilitate achi
ment to the aims described herein.

1.8 The detailed implementing pr
dures, to be agreed, will, consistent with
to the extent permitted by national l
and regulations, incorporate the followin

a. Offers or proposals will be evalu
without applying price differentials un
buy national laws and regulations and w
out applying the costs of import duty;
toms and import duties should not
charged as far as this is admissible un
current laws.

b. Full consideration will be given to
qualified industrial and/or governmental
sources in each other's country;

c. Offers or proposals will be required
satisfy requirements of the purchas
Party for performance, quality, delivery
costs.

1.9 Competitive contracting procedu
shall normally be used in acquiring items
conventional defense equipment develo
or produced in each other's country for
by either country's defense establishment

1.10 Both Parties will ensure that
technical data packages (TDPs) made av
able under this Memorandum of Und
standing are not used for any purpose ot
than for the purpose of bidding on, and p
forming, a prospective defense contr
without the prior agreement with th
owning or controlling proprietary rights
that full protection shall be given to su
proprietary rights, or to any privileged, p
tected, or classified data and informat
they contain. In no event shall the TDPs
transferred to any third country or
other transferee without the prior writ
consent of the originating Party.

1.11 Both Parties will undertake th
best efforts to assist in negotiating licens
royalties and technical information
changes with their respective industries

other owners of such rights. The two contracting parties will mutually make available to each other, to the extent possible, all information and proprietary rights required to implement cooperation under this agreement. The two contracting parties will, to the extent feasible, seek appropriate agreement with their industries that in the interest of standardization and armaments cooperation, proprietary rights in defense-relevant information and data can be transferred by appropriate arrangements, between the industries of the two countries.

1.12 Arrangements and procedures will, at the request of the purchasing Party, be established concerning follow-on logistic support for items of defense equipment acquired pursuant to this Memorandum of Understanding. Both Parties will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

2.1 The DoD and MoD will appoint representatives to determine in detail the procedures for implementing this Memorandum of Understanding and the terms of reference for a German-American Committee for Mutual Cooperation.

2.2 The Under Secretary of Defense for Research and Engineering will be the responsible authority of the United States Department of Defense for the development of implementing procedures under this Memorandum of Understanding.

2.3 The Director General of Armaments in the Ministry of Defense will be the responsible authority of the Ministry of Defense of Germany for the development of implementing procedures under this Memorandum of Understanding.

Article III—Industry Participation

3.1 Implementation of this Memorandum of Understanding will involve full industrial participation. Primary responsibility for finding business opportunities shall rest with the industries of each country.

3.2 Each Party will be responsible for calling to the attention of the relevant industries within its country the basic understanding of this Memorandum of Understanding, together with appropriate implementing guidance. Both Parties will take all appropriate implementing guidance. Both Parties will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

3.3 Also, the Parties will arrange to familiarize their respective procurement and requirements offices with the principles and objectives enunciated herein.

Article IV—Security

4.1 The operating procedures for the implementation of the General Security of Information Agreement dated 23 December 1960 between the two Parties, with particular reference to industrial security, apply to activities under this Memorandum of Understanding.

4.2 To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this Memorandum of Understanding are classified by either Party for security purposes, the other Party shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Party throughout the period during which the classifying Party may maintain such classification.

4.3 Information that has been provided by either of the Parties to the other on condition that it remain confidential shall either retain its original classification designation, or be assigned a classification designation that shall ensure a degree of protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Party will mark such information furnished with a legend indicating the origin of information, that the information relates to the MOU and Annexes thereto, and that the information is furnished in confidence.

Article V—Administration

5.1 Each Party will designate points of contact at the Ministry of Defense level and in each purchasing service/agency.

5.2 The German-American Committee for Mutual Cooperation, referred to in Article II above, will meet as agreed or at the request of either Party to review progress in implementing the Memorandum of Understanding. It will discuss development, production, procurement and logistic support needs of each country and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to this Memorandum of Understanding.

Article VI—Duration

6.1 This Memorandum of Understanding will remain in effect for a six-year period following its signing. Unless otherwise agreed by both Parties, the duration will be extended for another six years.

6.2. If, however, either Party considers it necessary for compelling national reasons to discontinue its participation under this Memorandum of Understanding before the end of the six-year period, or any extension thereof, written notification of its intention will be given to the other Party six months in advance of the effective date of discontinuance. Such notification of intent would be a matter of immediate consultation with the other Party to enable the Parties fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the Memorandum of Understanding may be terminated by the Parties, any contract entered into consistent with the terms of this Memorandum of Understanding shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VII—Implementation

7.1 Each Party must agree in writing to any amendment of this Memorandum of Understanding.

7.2 Details pertaining to implementation of the principles set forth herein will be set out in annexes to this Memorandum of Understanding.

7.3 Any differences of opinion over the interpretation and implementation of this Agreement and its Annexes shall be resolved by consultation between the DoD and MoD.

7.4 This Memorandum of Understanding will come into effect on the date of the last signature.

The Secretary of Defense of the United States of America.

Harold Brown.

Dated: October 17, 1978.

The Federal Minister of Defense of the Federal Republic of Germany.

Hans Apel.

October 17, 1978.

ANNEX—RECIPROCAL CONTRACT AUDIT DEFENSE SERVICES UNDER THE MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY REGARDING DEFENSE RESEARCH AND DEVELOPMENT, PRODUCTION, AND PROCUREMENT

I. Preamble

This annex sets forth the procedures under which the participating governments will provide one another with contract audit defense services upon request in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this annex and the laws of either participating government, the laws shall prevail. Nothing in this annex affects the statutory rights of the US General Accounting Office (GAO)/Bundersrechnumgshof (BRH) concerning access to records of contractors.

For purposes of this annex, defens
tract audit services shall include:

1. Evaluating proposed prices or co
sufficient detail to enable the cognizan
tracting officer to determine their a
ability during negotiations with the rel
contractor or subcontractor.

2. Examing contractor accounting re
and procedures to determine their accu
currency, completeness, and compl
with contract requirements.

3. Evaluating contractor cost estim
and accounting systems.

4. Verifying after contract award the
rency, accuracy, and completeness of co
pricing data submitted in support of
tractor proposals.

5. Verifying reimbursement vouchers
mitted under cost reimbursement contr
or other contracts with cost reimbursen
features (e.g., material reimbursement)
recommending cost disallowances when
propriate after consultation with the
tractor.

6. Monitoring compliance with disclo
accounting practices and contractual
counting requirements during contract
formance.

7. Verifying overhead cost records prio
overhead settlements, and contract
records prior to termination settlements.

8. Other usual and customary cont
audit services considered necessary by
tracting country.

The objective of this annex is to impr
the effectiveness and efficiency of the a
services available to the participating
ernments.

II. General

Contract audit reports shall be advis
The purchasing government shall retain
thority and responsibility for negotia
acceptable prices and contract settleme
with contractors.

The participating governments shall
form requested services to the maxim
extent permitted by available resources
according to the terms of the contract
subcontract involved. The performing
ernment shall apply the cost principles
cost accounting standards as specified in
contract. Consistent with these standa
and principles the performing governm
may use the same audit methods it cust
arily uses for its own contracts, and shall
termine the organizations and personnel
be involved. Both parties shall issue nati
al implementing guidelines which will
provided to their auditors and made av
able to the contractors for their infor
tion. Appendix I is a comparative guide
expressly covered costs, which is provi
for ready reference purpose only. The
fore, the Appendix should not be conside
as being complete, authoritative, subst

tive, or interpretive of existing cost regulations of the participating governments.

In the event a participating government is unable to provide requested services, or to perform them within a reasonable time, the purchasing government shall be entitled to perform the needed services itself. In addition, with advance notice to the other participating government, the purchasing government may elect to audit a specific contractor/subcontractor proposal or a specific contract; this should be limited to exceptional cases. Neither participating government shall duplicate or review the work of the other on any particular proposal or contract except under the circumstances set out above. However, the governments shall hold periodic discussions to evaluate the operational effectiveness of the reciprocal agreement. In addition, each government shall insure that its contract audit operations are periodically evaluated by its own appropriate review and oversight organizations.

The participating governments shall provide one another with access to available information concerning contractor cost estimating systems and disclosed accounting practices when needed to support contract negotiations or enforcement. It is expected that contracts requiring the disclosure of accounting practices shall normally authorize contractors to file such disclosures with their own government. In the United States, the files shall be maintained by the office administering the contracts. In the Federal Republic of Germany the Disclosure Statement shall be in accordance with FAR 30.201-1(e) (2) and shall be maintained by the Federal Office for Military Technology and Procurement (BWB), Koblenz.

Contracts and subcontracts shall contain suitable provisions to enable the participating governments to act for and on behalf of one another under this annex and shall authorize access to contractor facilities and records as necessary.

Recognizing that requests for support and contract terms may occasionally require clarification, each of the participating governments may designate an office in or near the other participating country to provide such clarification and to act as a focal point through which requests for services will be forwarded. Each participating government shall also designate an office, listed elsewhere in this annex, to receive requests for services.

III. Procedures

Requests for contract audit services in the Federal Republic of Germany shall be sent to BWB.*

Requests for contract audit services in the United States shall be sent to the cognizant Defense Contract Audit Agency (DCAA) Field Audit Office.

In order that the reciprocity of this annex may be periodically appraised, information copies of all requests for audit made by procurement officials, auditors, and prime and subcontractors of both countries will be sent to Defense Contract Audit Agency, European Branch Office, Lindsey Air Station, APO New York 09633.

Requests shall specify the services needed, identify any items of special interest to the purchasing government, and indicate the desired due date. Audit reports issued shall be responsive to audit requests and shall include coverage of the expressly unallowable cost's** to permit the purchasing government to successfully use the audit results. Acceptance of requests originating from the Office of the Comptroller General of the United States and the Bunderscrechnungshof shall be clearly identified as such.

Contract audit reports shall describe the scope and depth of the evaluations performed and indicate the methods used. Supporting evaluations by technical and other specialists shall be included in the reports. The information supplied should be sufficiently detailed to permit the purchasing government to determine acceptable prices or costs and to defend its position in negotiations with the contractor shall be acknowledged in writing by the performing government. Requests orgin taking contractural action. The purchasing government may request additional clarifications or supporting data if necessary, and shall have the final authority to determine when the information provided is adequate for its purposes.

IV. Protection of Information

Information obtained through the implementation of this annex shall receive the same protection against unauthorized disclosure as it would normally receive under the laws and rules of the participating government which possesses it.

V. Charges

Services will be provided under this annex free of charge, for all contracts, subcontracts, and FMS Letters of Offer and Acceptance entered into on or after the date of implementation of this annex provided that a joint review of the services being exchanged between the participating governments performed at not less than three year intervals indicates that general reciprocity is being maintained. If after such joint review either government determines that charges will be necessary, they may be imposed after not less than one year advance notice. Should charges by the U.S. Government become necessary, Foreign Military Sales procedures then in effect will apply. Purchases by the Federal Republic of Germany under the Foreign Military Sales Program will be handled under the U.S. FMS procedures in existence at the time of the FMS Agreement.

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*Requests for audits by BWB should be sent to: Bundesamt Fuer Wehrtechnik und Beschaffung-BWB, Referat AW II, 5400 Koblenz, Postfach 7360, Federal Republic of Germany. This request should set out time period and any special requirements of the requestor.

**For information purposes see Appendix I.

VI. Excluded

This audit annex does not cover audits for base support operation and maintenance, banking, government owned and company operated facilities, universities, and contractors solely in the business of supporting U.S. presence in the Federal Republic of Germany. (Construction contracts are not subject to this agreement.)

VII. Termination

The annex may be terminated in writing by either participant, to become effective the last day of the sixth month after notice of termination is given.

VII. Validity of Text

This annex has been drawn up in the German and the English language; both texts being equally authoritative.

IX. Effective Date

This agreement shall become effective on the day of the last signature of the English version.

X. Prior Audit Agreement

The 1966 audit agreement and annex to same between US DoD and FRG MOD is rescinded by the execution of this agreement.

For the Government of the United States of America.

——— ———,

Dated: November 29, 1985.

For the Government of the Federal Republic of Germany.

——— ———,

Dated: December 6, 1985.

ANNEX 5—MEMORANDUM OF UNDERSTAN BETWEEN THE GOVERNMENT OF THE ERAL REPUBLIC OF GERMANY AND GOVERNMENT OF THE UNITED STATE AMERICA CONCERNING THE PRINCI GOVERNING MUTUAL COOPERATION IN RESEARCH AND DEVELOPMENT, PRO TION, PROCUREMENT AND LOGISTIC PORT OF DEFENSE EQUIPMENT DATED OCTOBER 1978

PRINCIPLES GOVERNING CONTRA ADMINISTRATION SERVICES

1. Introduction

This Annex sets forth the terms, con tions, and procedures under which the Go ernments will provide each other with lected contract administration services a related information in support of defen contracts and subcontracts contemplated executed under the Memorandum of Unde standing (MOU). It is recognized that in t event conflicts arise between any aspect this Annex and the laws of either Govern ment, the laws shall prevail.

2. Major Principles

The objective of this Annex is to insur each Government is able to employ th most effective and efficient contract admi istration support possible when acti under the MOU. Nothing is to be constru as impairing a purchasing Government access to its contractors and their records may be contractually authorized.

For the purpose of this Annex, contrac administration shall include all those nece sary actions, other than contract prici and audit, to be accomplished at, or in pro imity to, a firm's place of business to assi the purchasing office in evaluating a pr spective contractor's capabilities and monitoring and enforcing awarded co tracts. This Annex supplements NATO Standardization Agreement (STANAG 4107, hereby incorporated by reference regard to reciprocal quality assurance.

3. General

The purchasing Government may reque specific services and information selecte from those listed in Appendix 1 to thi Annex which it considers appropriate to th circumstances. The purchasing Governmen may elect to obtain additional suppor through its own on-site representatives pro vided there is no duplication of work per formed by the host Government. In addi tion, the host Government will use its be efforts to supply information requested b the purchasing Government but not liste in this Annex when necessary to suppor contract award, enforcement, or termina tion. The provision of any services and in formation other than those defined in A pendix 1 will be on a cost reimbursable basis. The purchasing Government may modify a request for support during contract performance after consultation with the host Government.

The host Government shall accept requests for services to the extent resources are available and carry them out according to the procedures that Government uses for its own contracts.

Contracts shall contain suitable provisions for the host Government to act for and on behalf of the purchasing Government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of either Government deal with a contractor at the same location in support of the same contract or separate contracts, they shall act in full concert according to terms of reference mutually agreed or to be agreed upon.

Each Government shall designate a single office to receive requests for contract administration services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each Government may elect to designate an office in or near the other's country to act as a focal point through which requests for support will be forwarded. The host Government will endeavor to keep the purchasing Government's focal point apprised of current contract administration practices and resources to help insure requests for services are reasonable and prudent. The focal point shall advise the host Government concerning contract requirements and clarify requests for services as necessary.

4. Procedures

Requests for contract administration in the Federal Republic of Germany shall be directed to:

Bundesamt fur Wehrtechnik und Beschaffung, (Federal Office for Military Technology and Procurement), Konrad-Adenauer-Ufer 2-6, 5400 Koblenz 1, Tel 49-261-4001.

Requests for contract administration in the United States shall be directed to:

The Department of Defense Control Point, DCASR New York, 201 Varrick Street, New York, New York 10014, Tel 212/374-3446.

Contract administration requests will be accompanied by the number of copies of the request for proposal or awarded contract, as appropriate, prescribed in STANAG 4107 and will specify the contract administration services desired. Every effort will be made to forward support requests simultaneously with the forwarding of awarded contracts to the contractor. The format shall be as described in Annex A to STANAG 4107, with desired services other than quality assurance specified in Block 10. If less than comprehensive quality assurance is needed, the desired services selected from Allied Quality Assurance Publication (AQAP) 10 shall be specified in Block 10. Requests shall reference this Annex to the MOU and shall be processed according to the procedures in STANAG 4107 with due regard to Section VII of this Annex. In principle, acceptance or rejection shall be made within 30 calendar days of receipt by the host Government.

Direct communications between the purchasing office and the assigned contract administration office in resolving contract problems are authorized and encouraged. The purchasing Government shall retain final authority over contract interpretations and enforcement actions, and shall advise the contract administration office on such matters as needed.

In the event the purchasing Government envisions the assignment of in-plant representatives, proposed terms of reference describing an appropriate working relationship with host Government representatives will be suggested to the host Government as early as possible.

5. Responsibility and Liability.

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex on behalf of the other Government.

6. Protection of Information

Data obtained through the implementation of this Annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

7. Charges

Services defined in Appendix 1 and provided under this Annex will be free of charge, subject to a joint review of the services being exchanged at not less than three-year intervals. If, as a result of such a joint review, either Government determines that charges will be necessary, they may be imposed after not less than one year advance notice. Should such charges by the U.S. Government become necessary, or should the USG provide services other than those defined in Appendix I, Foreign Military Sales Procedures then in effect will apply.

8. Duration

This Annex will remain in effect for a period as set forth in ARTICLE VII of the

MOU, and may be terminated under the conditions as set forth in that Article.

9. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America

James P. Wade, Jr.,
Date: Dec. 6, 1983.

For the Government of the Federal Republic of Germany

Date: Dec. 6, 1983.
Appendix: 1. Services to be Exchanged.

Appendix 1 to Annex 5.—Principles Governing Contract Administration, Services To Be Exchanged

In accordance with the principles and procedures as set forth in this Annex the following services will be performed by the host Government within its national boundaries upon requests by and on behalf of the purchasing Government:

1. Support evaluations of contractor capabilities prior to award.

a. Supply available information concerning design, production, and quality control capabilities as appropriate; for example, the amount of available floor space, plant equipment, number of workers, past production of similar items, and (the information) whether the firm is able to meet the specific NATO allied quality assurance publication (AQAP) to be invoked on the contract.

b. Evaluate the financial strength of the prospective contractor, estimate the likelihood that financial resources will be sufficient to accomplish the contract, and rep the monetary value (in local currency) host Government capital assets furnished made available to the contractor which m be used in the contract.

c. Provide access to available accounti system disclosure statements and assistan in determining the system's ability to me contractual requirements.

2. Perform Government quality assuranc as defined in STANAG 4107, in whole or part as requested.

3. Report detected potential or actual sli pages in contract delivery schedules or an other contractor difficulties which migh affect contract performance.

4. Assess contract progress if needed b the purchasing office to authorize financ payments, and recommend approval or di approval of contractor payment requests.

5. Evaluate the feasibility and practicali of contractor production plans.

6. Verify contractor management repor furnished to the purchasing office durin contract performance.

7. Evaluate and monitor contractor com pliance with contract requirements govern ing technical data, especially the propriet of any restrictive markings on data offer for delivery under the contract.

8. Monitor contractor costs under cost re imbursement contracts, and insure the pur chasing office is advised of any anticipate overruns or underruns of estimated costs.

9. Advise the purchasing office if support ing contract administration is needed a subcontractor plants to verify the adequac of prime contractor management, and assi the purchasing Government to obtain de sired support within the host country.

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPL AND WEST GERMAN COST PRINCIPLES VOPR 30/53

[May 1984]

DAR/FAR reference		VOPR referen (translated versi
DAR 15-205.1, FAR 31.205-1	Advertising Costs—Most advertising costs are specifically unallowable under DAR, except for contract related labor recruitment and material acquisition/disposition. In contrast, VOPR specifically allows advertising costs, including both institutional and product advertising.	III 834
DAR 15-205.2, FAR 31.205-3	Bad Debts—The costs of bad debts are specifically unallowable. There is no corresponding provision in the VOPR.	
DAR 15-205.3, FAR 31.205-18	Bid and Proposal Costs—Bid and proposal costs under DAR are limited by ceilings, established either by negotiation or formula. No similar restriction exists in the VOPR.	
DAR 15-205.4, FAR 31.205-4	Bonding Costs—Bonding costs are generally allowable under DAR. No specific reference in VOPR.	
DAR 15-205.5, FAR 31.205-5	Civil and Defense Costs—Such costs are generally allowable under DAR, except for contributions to local civil defense funds and projects. No comparable provisions are included in the VOPR.	

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.6, FAR 31.205-6	Compensation for Personal Services—Compensation for personal services includes all remuneration paid currently or accrued, in whatever form, for services rendered by employees. Such compensation is generally allowable, provided (1) it is for work performed in the current year and does not represent a retroactive adjustment of prior years' salaries or wages, (2) it is reasonable for the work performed, (3) it is based on and conforms to the terms and conditions of an established compensation plan or practice followed so consistently as to imply, in effect, an agreement to make the payment, (4) when existing compensation plans are revised or new plans are implemented, the Government, either before implementation or within a reasonable period thereafter, has an opportunity to review the allowability of the changes; otherwise no presumption of allowability will exist, and (5) the costs are not unallowable under other paragraphs of Part 2. Reasonableness is generally determined by comparison with other firms of the same size, in the same industry, or in the same geographic areas, performing similar services or work. Costs of compensation are not allowable to the extent that they result from provisions of labor management agreements that, as applied to work in the performance of Government contracts, are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. Specific coverage is also included for bonuses and incentive compensation, severance pay, stock options, and pension costs. The VOPR allows "reasonable" pay negotiated with individuals, but appears to accept categorically salaries and wages established by collective bargaining. This VOPR section also allows imputed entrepreneurial remuneration for sole proprietors or partners or relatives of such. For CAS covered contracts, the deferred compensation provisions in DAR 15-205.6 have been supplemented by CAS 412, 413, and 415.	III B22.
DAR 15-205.7, FAR 31.205-7	Contingencies—The cost of contingencies are generally unallowable for historical costing purposes under the DAR. However, the DAR recognizes as allowable in estimating future costs, contingency costs which may arise from presently known conditions. A fairly extensive exposition of contingent costs is included in the VOPR, which states costs of risk-related losses are allowable if spread over an extended period and if based on past experience possibly covering several years as a reference basis.	III K49.
DAR 15-205.8, FAR 31.205-8	Contributions and Donations—Contributions and donations are unallowable under Section XV of DAR. Such costs are allowable under the VOPR.	III F32.
DAR 15-205.9, FAR 31.205-11	Depreciation—The basic difference in the treatment of this cost element is that DAR provides for depreciation as a charge to distribute the cost less estimated residual value over the estimated useful life in a systemaic and logical manner. Normal depreciation on a contractor's plant, equipment and other capital facilities is an allowable element of contract cost provided such costs are reasonable and allocable. Depreciation will ordinarily be considered reasonable if the contractor follows depreciation policies and procedures which (1) are consistent with policies and procedures followed in non-Government business, (2) are reflected in books of accounts and financial statements, and (3) are used and are acceptable for Federal income tax purposes. No depreciation, rental or use charge is allowed on property acquired at no cost from the Government. Assets acquired by means of a capital lease are subject to the provisions of this cost principle. The VOPR provides for recovery of acquisition cost or replacement cost and defines other requirements.	III K(a) 37 thru 42.

Appendix I—Comparison of DAR, Section XV, Part 2, and FAR Section 31 Cost Principl and West German Cost Principles VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version
DAR 15-205.10, FAR 31.205-13	Employee Morale, Health, Welfare and Food Service and Dormitory Costs and Credits—Such costs, less related income are allowable under the DAR with certain limitations. There is not specific coverage concerning these costs in the VOPR but could be considered additional benefits under the social costs section.	III B25.
DAR 15-205.11, FAR 31.205-14	Entertainment Costs—Entertainment costs are specifically unallowable under the DAR. These costs are allowable under the VOPR.	III H34.
DAR 15-205.12, FAR 31.205-17	Costs of Idle Facilities and Idle Capacity—Costs of idle facilities as defined in DAR are generally unallowable after a period of 1 year. The costs of "idle capacity" may be unallowable under DAR if the idle capacity is widespread. There are no similar restrictions in the VOPR.	
DAR 15-205.13, FAR 31.205-15	Fines and Penalties—Fines and penalties resulting from violations of or failure to comply with laws and regulations are unallowable except when incurred as a result of compliance with specific contract provisions or written instructions from the contracting officer.	
DAR 15-205.15, FAR 31.205-6	Fringe Benefits—This paragraph is cross-referenced to paragraph 15-205.6(m) in Section XV of DAR and costs are generally allowable if reasonable. Fringe benefits are generally allowable under the social costs section of VOPR.	III B25.
DAR 15-205.16, FAR 31.205-19	Insurance and Indemnification—Insurance costs under DAR are generally allowable, subject to certain limitations and restrictions. However, costs for business interruption insurance are specifically limited to exclude coverage for profit. The cost of insurance to protect a contractor against the costs of correcting its own defects in materials or workmanship is unallowable. There is no specific coverage of insurance costs in the VOPR.	
DAR 15-205.17, FAR 31.205-20	Interest and Other Financial Costs—Interest on borrowing, bond discounts, costs of financing and the like are unallowable under the DAR. Imputed interest may be included in the price calculation for the cost of operating capital under the VOPR.	III K(b) 43 thru 46
DAR 15-205.18, FAR 31.205-21	Labor Relations Costs—Such costs are allowable under the DAR. There are no similar provisions in the VOPR.	
DAR 15-205.19, FAR 31.205-23	Losses on Other Contracts—Such costs are unallowable under the DAR. No specific reference is made in the VOPR.	
DAR 15-205.20, FAR 31.205-24	Maintenance and Repair Costs—Normal maintenance and repair are specificially allowable under DAR. Extraordinary costs are allowable if allocated to the periods to which they are applicable. Similar provisions are included under the VOPR.	III C26.
DAR 15-205.21, FAR 31.205-25	Manufacturing and Production Engineering Costs—Costs related to manufacturing processes such as time and motion studies and industrial engineering are specifically allowable under the DAR. There are no similar provisions in the VOPR.	
DAR 15-205.22, FAR 31.205-26	Material Costs—The costs of materials acquired specifically for a contract are allowable at the actual purchase costs under the DAR. Materials issued from stores may be charged to the contract by the use of any generally recognized inventory pricing method, provided the method is consistently applied and the results are equitable. DAR also provides that the allowance for materials "which are sold or transferred between any division, subsidiary or affiliate of the contractor under a common control shall be on the basis of cost incurred," except that a price may be used where such materials are transferred on the basis of a catalog or market price or on the basis of adequate price competition with outside organizations.	III A 11 thur 13.

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
Under the VOPR, commercial items supplied by the contractor's own organization are to be included in the costs at the current "price." This practice is not only permitted, but required. Similarly, noncommercial items furnished by the contractor's own organization are to be included at a "price" based on cost, if such transfers are not the usual practice of the industry. Noncommercial items are to be included at cost if such transfers are the usual practice of the industry. The term "the contractor's own organization" apparently refers to both intradivisional and interdivisional transactions. However, it specifically excludes related organizations which are legal entities. These are subcontractors who have to determine costs in accordance with the VOPR	III A19.	
Under the VOPR, material costs are to be reduced by quantity discounts, trade discounts, annual and turnover discounts, credit for returned materials, etc	III A18(3).	
DAR 15-205.23, FAR 31.205-27	Organizational Costs—Expenditures related to the organization or reorganization in the corporate structure of a business are unallowable under DAR, as are costs of raising capital. Similar restrictions are not included in the VOPR.	
DAR 15-205.24, FAR 31.205-28	Other Business Expenses—These costs include costs related to shareholders' meetings, proxy solicitations, annual reports, normal registry and transfer charges related to the contractor stock, etc. Such costs are generally allowable when allocated on an equitable basis. There are no similar costs mentioned in the VOPR.	
DAR 15-205.25, FAR 31.205-35	Relocation Costs—The DAR includes extensive restrictions and limitations on the allowability of relocation costs. There are no similar costs mentioned in the VOPR.	
DAR 15-205.26, FAR 31.205-30	Patent Costs—As a general rule, costs related to patents are allowable under the DAR if required pursuant to a contrant or if title or royalty free license in the patent is required to be conveyed to the Government. Patent costs related to patents to which the Government does not obtain title or royalty free license are unallowable. In contrast, the VOPR allows all patent costs regardless of whether the Government obtains title. However, such costs must be capitalized and amortized or allocated on an accrual basis.	III G33.
DAR 15-205.27, FAR 31.205-6	Pension Plans—This paragraph is cross-reference to Section 15-205.6(j) in Section XV of DAR. It contains detailed comments on limitations on pension costs and defines eligibility requirements which pension plans must meet. It also incorporates compliance with CAS Nos. 412, 413, and 415 which makes it necessary to analyze pension plans to assure pension costs are allowable. There is no specific reference to pension costs in the VOPR but they could fall under the social costs section.	III B25.
DAR 15-205.28, FAR 31.205-29	Plant Protection Costs—These costs are specifically allowable under DAR. Such costs are not specifically mentioned in the VOPR.	

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIP AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated versio
DAR 15–205.29, FAR 31.205–31	Plant Reconversion Costs—Plant reconversion costs are defined in the DAR as those incurred in the restoration of the contractor's facilities to the same conditions which existed prior to the contract. Such costs are generally unallowable except for the cost of removing Government property. These costs are not specifically mentioned in the VOPR.	
DAR 15–205.30, FAR 31.205–32	Precontract Costs—Precontract costs are defined in DAR as those incurred prior to the effective date of a contract in anticipation of a contract award. They are generally allowable. No specific reference in VOPR.	
DAR 15–205.31, FAR 31.205–33	Professional and Consultant Service Costs—Legal, Accounting, Engineering and Other—These costs are generally allowable under the DAR, subject to certain criteria. However, they would not be allowable if the consultant fees were incurred in connection with activities the costs of which are otherwise unallowable under the DAR. While not specifically mentioned, such costs could be allowable under the VOPR section on other labor costs.	III B 22 and 23.
DAR 15–205.32, FAR 31.205–16	Gains and Losses on Disposition of Depreciable Property or Other Capital Assets are subject to special treatment under the DAR. There is no specific VOPR reference for treating these items.	
DAR 15–205.33, FAR 31.205–34	Recruitment Costs—Recruitment costs under DAR are generally allowable. However, costs of help wanted advertising may be unallowable under certain conditions. There is no specific reference to recruitment costs in the VOPR.	
DAR 15–205.34, FAR 31.205–36	Rental Costs—Costs of long-term leasing under the DAR are generally limited to the costs the contractor would have incurred were he the owner of the property. Similar limitations are placed by the DAR on rental costs incurred pursuant to a sale and leaseback agreement or pursuant to a lease with an organization under common control. Similar restrictions do not exist in the VOPR and rental costs are generally allowable.	III H34.
DAR 15–205.35, FAR 31.205–18	Independent Research and Development Costs—Independent research and development costs under the DAR are limited to an amount established either by a formula or by negotiated advancc agreements. The threshold under FAR for advance agreements is based on all Government contracts and subcontracts, rather than just DoD contracts and subcontracts as in DAR. Independent research and development costs are to include an allocation of all overhead costs except general and administrative expenses. The allowable independent research and development costs generally must be allocated on the same base used by the contractor to allocate general and administrative expenses. Costs of deferred independent research and development are normally unallowable. Under the VOPR, costs of independent development and contract-sponsored development beyond the scope of the contractor "independent" development will be subject to a separate agreement. Costs will be broken down into costs by these two types and their allocation will be substantiated separately for each under the VOPR. There appears to be no specific references in the VOPR concerning the allocation of overhead to independent research and development projects.	III C 27 and 28.
DAR 15–205.36, FAR 31.205–37	Royalties and Other Costs for Use of Patents—Costs of royalties for the use of a patent are generally allowable under the DAR unless the Government has a license or right to free use of the patent. License fees paid are generally allowable under the VOPR.	III G33.

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.37, FAR 31.205-38	Selling Costs—Selling costs under the DAR are generally allowable to the extent that they are reasonable and allocable to Government business. Allocability is to be judged in light of the benefit to the Government from technical, consulting, demonstration, or other services. Compensation of salesmen or agents which is contingent on the award of contracts is allowable only when paid to bona fide employees or bona fide sales agencies. The selling costs incurred for potential and actual FMS sales are not allocable to USC contracts. The VOPR does not address normal selling costs specifically but does discuss "special selling costs", which are allowable if the services are required and are "within reasonable limits." There are no restrictions on FMS sales but agents' commissions may be limited by agreement and will be shown separately in price calculations.	III J35.
DAR 15-205.38, FAR 31.205-39	Service and Warranty Costs—Such costs are generally allowable under the DAR, subject to the caution that such costs must not duplicate specific provisions for service and warranty as an element of contract costs. Under the VOPR section these types of costs can be construed to fall under the definition of contingencies as "losses that have actually arisen from risks in the past" and are allowable subject to certain restrictions.	III K49.
DAR 15-205.39, FAR 31.205-6	Severance Pay—This paragraph is cross-referenced to Section 15-205.6(g) in Section XV of DAR. Costs of severance pay attributable to normal turnover is allowable as an ongoing cost under the DAR. Accruals for abnormal or mass severance pay are not allowable. However such costs can be considered on a case-by-case basis when they arise. No specific mention of such costs is made in the VOPR.	
DAR 15-205.40, FAR 31.205-40	Special Tooling and Special Test Equipment Costs—Costs of special tooling, etc., required specifically for the contract are generally allowable as a direct cost of such contract under the DAR. The VOPR states special tooling may be reimbursed by a one-time payment if allocable to a single contract or else will be amortized to the items supplied as special manufacturing costs.	III A14.
DAR 15-205.41, FAR 31.205-41	Taxes—Taxes which are paid or accrued in accordance with generally accepted accounting principles are allowable under the DAR, with certain exceptions. Significant exceptions include Federal income taxes and taxes on any category of property used solely in connection with work other than Government contracts. In addition, under the DAR, income tax accruals designed to account for the tax effects of differences between taxable income and pretax book income are unallowable. The VOPR specifically provides that income tax, corporate tax, inheritance tax and gift tax are unallowable. The VOPR also identifies allowable taxes; trade tax, property tax, real estate tax, motor vehicle taxes and taxes on internal consumption. Certain taxes are treated as special costs; "turnover tax" on goods and services including prior-stage taxes and special excise taxes levied on the products. Special problems arise in connection with the turnover or value-added tax because the contractor can deduct from the value-added tax, the amount of the tax he has paid in the cost of goods obtained from others. Under the VOPR, equalization-of-burdens levies are not allowable.	III F 30 and 31.
DAR 15-205.42, FAR 31.205-42	Termination Costs—The DAR contains extensive provisions for the determination of costs under a termination settlement. No similar provisions are contained in the VOPR.	
DAR 15-205.43, FAR 31.205-43	Trade, Business, Technical and Professional Activity Costs—These costs under DAR include such items as memberships, subscriptions and meetings and conferences. The costs of all of these items are generally allowable. There are no comparable references in the VOPR.	

Appendix I—Comparison of DAR, Section XV, Part 2, and FAR Section 31 Cost Princip and West German Cost Principles VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR referenc (translated versi
DAR 15-205.44, FAR 31.205-44	Training and Educational Costs—The DAR limits the allowable costs for training and education to bona fide employees. Costs for full-time education and costs of specialized programs designed to enhance the effectiveness of employees are subject to limitations. The VOPR does not contain any specific provisions for training and education costs.	
DAR 15-205.45, FAR 31.205-45	Transportation Costs—Transportation costs such as freight, express and postage are specifically allowable under DAR as either direct or indirect costs. The VOPR states costs of this nature will be stated separately "unless they are charged to other costs in the interest of efficient accounting."	III J36.
DAR 15-205.46, FAR 31.205-46	Travel Costs—The DAR specifically allows travel costs either on the basis of actuals or per diem. However the difference between first-class air travel and less than first class air travel is generally unallowable. In addition, the DAR provides some limiting criteria regarding the allowability of the costs of company aircraft. The VOPR does not contain any specific references or limitations regarding travel costs.	
DAR 15-205.47, FAR 31.205-12	Economic Planning Costs—Under DAR these costs include costs of generalized long-range management planning for the future development of business and are specifically allowable as indirect costs. The VOPR does not include any mention of these costs.	
DAR 15-205.48, FAR 31.205-2	Automatic Data Processing Equipment (ADPE) Leasing Costs—The DAR contains provisions which would frequently limit costs of leasing ADPE equipment to the costs that the contractor would have incurred had he purchased the equipment. In contrast, the VOPR states rental costs (which would include ADPE rental costs) are allowable if the rental costs are purchased on the "same favorable terms and conditions as are customarily granted . . .	III H34.
DAR 15-205.49, FAR 31.205-48	Deferred Research and Development Costs—Research and development costs incurred prior to award of a contract are unallowable except when allowable as precontract costs, plus other limitations. The VOPR contains no specific mention of deferred R&D. See VOPR reference IIII D27 and 28 for comments on "Independent" and "Contract-sponsored" development.	
DAR 15-205.50, FAR 31.205-10	Cost of Money—Cost of money under DAR is an allowable imputed cost base of facilities capital employed and as an element of cost of capital assets under construction. The VOPR provides for imputed interest costs based on the cost of operating capital. It defines operating capital to include "fixed and current assets that serve the primary operations of the enterprise." The VOPR also permits the use of replacement cost methods to price the assets.	III Kb43 thru 46.
DAR 15-205.51, FAR 31.205-22	Lobbying Costs—Lobbying costs "including the applicable portion of the salaries of employees" are unallowable under the DAR. This section further defines the activities considered lobbying. There is no similar reference in the VOPR. As of 1 July 1984 the FAR will be changed to incorporate the requirements of OMB Circular A122. The content of the revision follows: Costs associated with (1) attempts to influence the outcome of any Federal, State or local election, referendum or initiative, (2) establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organizations established for the purpose of influencing the outcome of elections, and (3) attempts to influence the introduction, enactment or modification of any Federal or State legislation, are generally unallowable. Certain activities (e.g., providing technical and factual information in response to a legislative request, or any activity specifically authorized by statute to be undertaken with funds from the contract) are excepted from the foregoing coverage. The cost principle also contains provisions covering treatment and documentation of allowable and unallowable costs.	

APPENDIX I—COMPARISON OF DAR, SECTION XV, PART 2, AND FAR SECTION 31 COST PRINCIPLES AND WEST GERMAN COST PRINCIPLES VOPR 30/53—Continued

[May 1984]

DAR/FAR reference		VOPR reference (translated version)
DAR 15-205.52, FAR 31.205–47	Defense of Fraud Proceedings—Costs incurred in connection with the defense of any criminal or civil investigation, grand jury proceeding or prosecution, civil litigation, or suspension, debarment or other administrative proceedings, brought by the Government against the contractor, are unallowable when the charges involve fraud on the part of the contractor, its agent or employees, and result in conviction, judgment against the contractor, or are resolved by consent or compromise. Fraud includes (1) acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents, (2) acts which constitute a cause for debarment or suspension under the Defense Acquisition Regulation, and (3) acts which violate the False Claims Act or the Anti-Kickback Act. This area is not covered in VOPR.	

NOTE: As of 1 April 1984 the FAR replaced the DAR and the non-DoD Government agencies regulation FPR. DoD has issued the DoD FAR Supplement. Contracts issued after the above date are subject to the new regulation. Those issued prior to that date continue to operate under DAR. Both references are therefore listed above.

T-206 ITALY MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of Italy and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research, Development, Production and Procurement of Defense Equipment

Preamble

The Government of the United States of America and the Government of Italy, hereinafter referred to as "the Governments":

Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production, procurement, and logistic support of defense equipment, in order to:

–Make the most cost-effective and rational use of the funds allocated to defense to the extent permitted by their national policies, assuring the most satisfactory level of reciprocal balance; and

–Promote the widest possible use of standard or interoperable equipment; and

–Develop and maintain an advanced technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Agreement;

Noting that no agreement covers harmonization of mutual procurements, although specific offset agreements have existed between them in the past, and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding (MOU) sets out the guiding principles governing mutual cooperation in defense equipment research and development, production, procurement and logistic support.

The Government of the United States of America and the Government of Italy conclude this Memorandum of Understanding to strengthen the North Atlantic Alliance.

The two Governments agree that this Memorandum of Understanding should be incorporated in the larger context of the cooperation between Europe and North America within the Alliance.

All agreements, or the relevant provisions contained therein, between the Independent European Program Group (IEPG) and the United States of America, shall take precedence over this Memorandum of Understanding, provided that Italy is a party to the specific agreement.

Article I—Principles Governing Mutual Defense Cooperation

1. Both Governments will take immediate steps to achieve and maintain an equitable balance in their exchanges, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies. An equitable balance, in principle, shall be achieved when the two Governments have implemented all practicable means at their disposal to maximize defense R&D cooperation and reciprocal procurement to the extent compatible with the nature of each country's technological and industrial base. Items procured under offset agreements by

either Government with an industry of the other will apply to the achievement of the balance contemplated by this agreement.

2. This agreement is intended to cover areas in which possible bilateral cooperation could be achieved in conventional defense equipment research and development, production, procurement, and logistic support complementing the work of the Conference of National Armament Directors (CNAD), Senior NATO Logisticians Conference (SNLC) and the Independent European Program Group (IEPG).

3. The two Governments will, consistent with their laws and regulations give full consideration to all requests for cooperative R&D and to all requests for production and procurement which are intended to maximize Alliance standardization and/or interoperability.

4. The two Governments shall, in the spirit of cooperation, mutually determine the counting procedures that will apply to all items under this agreement (and associated services included in a contract) purchased either directly by the two Governments or through their defense industries.

5. In the interests of standardization and the effective utilization of scarce resources the two Governments shall, if possible, select qualified defense items that have been developed and produced in the other country to meet their requirements in accordance with the procedures of paragraph 9 below.

6. Each Government may propose to the other any particular item of defense equipment that might be suitable for use by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate achievement of the aims described in paragraph 5.

8. Barriers to procurements or coproduction of an item of defense equipment that has been developed in the other country shall be removed, insofar as laws and regulations permit, such as not applying customs duites and other discriminatory levies in evaluating bids submitted in accordance with this MOU as well as the waiver of protectionist provisions. Defense items or services are those items or services which may be procured utilizing appropriated funds of the US Department of Defense or budgeted funds of the Italian Ministry of Defense.

9. Competitive contracting procedures normally shall be used in acquiring items of conventional defense equipment developed in each other's country.

10. Full consideration will be given to all qualified industrial and/or Government sources in each other's country consistent with the national procurement policy and criteria. It is therefore understood that items offered shall satisfy requirement performance, quality, delivery and cost.

11. Both Governments will review it submitted as candidates for respective quirements. They will indicate requirem and proposed purchases in a timely fas to ensure adequate time for their respec industries to qualify for eligibility submit a bid or proposal.

12. Third party transfers of defense cles or technical data made available un this MOU, and of articles produced such data, will be subject to the agreem of the Government that made available defense articles or technical data, except otherwise provided in particular arran ments between the two Governments. Ea Government will base its decisions rega ing requests by the other for agreement third party transfers on its laws, regu tions, and arms transfer policy. Each Go ernment will use the same criteria for pr posed transfers by the other as it uses f itself, and will not reject, solely in the pu suit of its own national commercial adva tage, a request from the other for a thir country transfer of such defense articles technical data. Consistent with the above, carrying out its own transfers to third coun tries, each Government shall take into con sideration the extent to which a propose transfer may damage or infringe upon li censing arrangements whereby commerci firms in the US or Italy have granted t firms in the other country licenses for th manufacture of the articles proposed to b transferred to a third-country.

13. Each Government will ensure that th technical data packages (TDPs) made avai able under this MOU are not used for an purpose other than for the purpose of bid ding on, and performing a prospective de fense contract without the prior agreeme with those owning or controlling propri tary rights and that full protection shall b given to such proprietary rights, or to an privileged, protected, or classified data an information they contain. In no event sha the TDPs be transferred to any third cou try or any other transferees without th prior written consent of the originatin Government.

14. Both Governments will underta their best efforts to assist in negotiating li censes, ties and technical information ex changes with their respective industries.

15. Arrangements and procedures will b established concerning follow-on logisti support for items of defense equipment cov ered by this Memorandum of Understand ing. Both Governments will make their de fense logistic systems and resources avail able for this purpose as required and mutu ally agreed.

Article II—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this Memorandum of Understanding. Terms of reference will be proposed for an Italian-American Committee for Mutual Cooperation, including rules governing its work. The implementing procedures under this Memorandum of Understanding shall be an integral part thereof.

2. The Under Secretary for Defense of Research and Engineering, in coordination with the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, the Director, Defense Security Assistance Agency, and other appropriate Department of Defense officials, will be responsible in the United States Government for the development of implementing procedures under this Memorandum of Understanding.

3. The National Armament Director in the Ministry of Defense, in coordination with the other appropriate governmental bodies, will be the responsible authority of the Government of Italy for the development of implementing procedures under this Memorandum of Understanding.

Article III—Industry Participation

1. Each Government will be responsible for calling to the attention of the defense industries within its country the basic understanding of this Memorandum of Understanding, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the defense industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this Memorandum of Understanding will involve full industrial participation. Accordingly, the Governments will arrange to familiarize their respective procurement and requirements offices with the principles and objectives of this Memorandum of Understanding. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industrial participants of each country.

Article IV—Security

1. To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this Memorandum of Understanding are classified by either Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

2. The operating procedures for the implementation of the General Security Information Agreement dated 4 August 1964 between the United States Department of Defense and the Italian Ministry of Defense apply to activities under this Memorandum of Understanding.

3. Information that has been provided by the GOI to the United States in Confidence, or produced by the United States pursuant to a written joint arrangement with GOI requiring confidentiality, shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection against disclosure equivalent to that required by the GOI. To assist in providing the desired protection, the GOI will mark such information furnished to the U.S. Government with a legend indicating that the information is of Italian Government origin, that the information relates to this MOU, and that the information is furnished in confidence.

Article V—Duration

1. This Agreement will remain in effect for a ten-year period following its signing. Unless otherwise agreed by both Governments, the duration will be extended for another ten years.

2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this Memorandum of Understanding before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of discontinuance. Such notification of intent would be a matter of immediate consultation with the other Government to enable the Government fully to evaluate the consequences of such termination and in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the Memorandum of Understanding may be terminated by the parties, any contract entered into consistent with the terms of this agreement shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VI—Administration

1. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency.

2. Government representatives will meet as agreed or at the request of either Government to review progress in implementing the Memorandum of Understanding. They will discuss development, production and

procurement needs of each country and the likely areas of cooperation; agree to the basis of, and keep under review and promoting any correction step, the financial statement referred to below; and consider any other matters relevant to the Memorandum of Understanding.

3. An annual United States/Italy statement of the current balance, and long-term trends of R&D cooperation and purchases between the two countries will be prepared on a basis to be mutually agreed. Such statement will take account of any United States/Italy offset agreements in force when the Memorandum of Understanding was signed and will be reviewed during the meetings referred to in paragraph 2 above.

Article VII—Annexes

Annexes negotiated by the responsible offices and approved by the appropriate Government authorities will be incorporated in this agreement and made an integral part thereof.

Article VIII—Implementation

1. The arrangements contained in this Memorandum of Understanding represent the understanding reached between the Government of the United States of America and the Government of Italy upon the matters referred to herein. Each Government must mutually agree to any amendment of this Memorandum of Understanding.

2. This agreement, in two original texts in the Italian and English languages, both texts being equally authentic, will come into effect at the date signed by both Governments.

For the United States Government.

Harold Brown.

Dated: September 11, 1978.

For the Government of the Italian Republic.

Attilio Ruffini.

September 11, 1978.

Annex 1 to the Memorandum of Understanding Between the Government of the United States of America and the Government of Italy Concerning Mutual Cooperation in Defense Equipment Research and Development, Production and Procurement, Dated 11 September 1978

Principles Governing Implementation

1. Foreword

On 11 September 1978 the Governments of the United States and Italy signed a Memorandum of Understanding (MOU) relating to the principles governing mutual cooperation in the Research, Development, Production, Procurement, and Logistic Support of Defense Equipment. This annex sets forth mutually agreed implementing procedures for carrying out the MOU.

2. Basic Principles

With the aim already expressed in the text of the MOU to achieve the greatest practicable degree of standardization/interoperability in defense equipment, the two Governments shall cooperate in the field of Research, Development, Production, Procurement, and Logistic Support in order to implement programs of common interest and to strengthen their respective industrial defense efforts. This goal can be attained through both the joint participation in mutually agreed research, development and production programs, through an interchange of studies, materials and services, as well as through offset agreements between governments and industries.

The U.S. Department of Defense (DoD) and the Italian Ministry of Defense (MoD) will each consider for procurement for their defense requirements qualified defense items (and associated services) developed or produced in the other country. (See also paragraph 3 of this Annex). MoD and DoD will also identify to one another, as soon as possible, those practices of their respective countries having the force of law that may potentially restrict the fulfillment of the MOU and this Annex. It will be the responsibility of government and/or industry representatives in each country to obtain timely information concerning the other country's proposed developments and purchases and to respond to requests for proposals. However, the responsible governmental purchasing agencies in each country will assist sources in the other country to obtain timely information concerning proposed purchases, necessary qualifications and appropriate documentation.

3. Action

A. In implementing the foregoing, the two Governments shall in accordance with mutual laws and regulations consider the following:

1. Cooperation in R&D for specified projects. Said cooperation may take place also in the framework of projects already undertaken by both countries.

2. Co-production of defense equipment both for the requirements of the two countries and for export.

3. Supply of logistic and administrative materials and facilities.

4. Maintenance and overhauling of items of military equipment, including supply of spares.

B. DoD and MoD will individually review and, where considered necessary, revise their respective internal policies, procedures and regulations to ensure that the principles and objectives of this MOU, which are intended to be compatible with the broad aims of NATO Rationalization/Standardization, are taken into account. The DoD and MoD agree that, upon respectively taking the measures listed below, they will have fulfilled their obligation under paragraph 1, Article 1 of the MOU, to implement all practical means at their disposal to optimize defense R&D cooperation and procurement. These measures will be undertaking in a reasonable manner, recognizing among other factors, delivery date requirements for supplies, the interest of security, the timely conduct of the procurement process, and requirements attendant to ensuring free and full competition for the award of contracts.

1. Ensure that their respective requirements offices are familiar with the principles and objectives of this MOU.

2. Ensure that their respective research and development offices are familiar with the principles and objectives of this MOU.

3. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

4. Ensure wide dissemination of the basic understanding of this MOU to their respective defense industries.

5. Ensure that to the extent permitted by national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such ffers, either price differentials under buy- ational laws and regulations or the cost of mport duties. Provisions will be made for uty free certificates and related documen- ations to the extent consistent with nation- l laws and procedures.

6. Assist industries in their respective untries to identify and advise the other vernment of their capabilities and assist ch industries in carrying out the support tions to maximize industrial participation.

7. Review defense items submitted as can- dates for respective requirements. Identify quirements and proposed purchases in a mely fashion to ensure adequate time for eir respective industries to participate in e development of production procurement ocesses.

. Make best efforts to assist in negotiat- licenses, royalties, and technical infor- tion exchanges with their respective in- tries.

. Permit the sales of equipment produced der license to allied countries and to ap- priate third countries, subject to the icy outlined in Article 1, paragraph 12 of basic MOU.

. Ensure that those items excluded from sideration under this MOU for reasons rotecting overriding national interests, as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items as well as those items which would not be qualified as a defense item under this MO because of legally imposed restrictions on procurement from non-national sources should be identified as soon as possible in lists drawn up by MoD and DoD for their respective countries, and that the lists should be kept under review at this level.

11. Ensure that the balance of reciprocal purchasing within the areas of this MOU takes into consideration the levels of technology involved, as well as the contractual value, in accordance with the policy outlined in Article 1, paragraph 1 of the basic MOU.

12. Arrange visits between appropriate government personnel from time to time in order actively to explore possibilities for R&D cooperation, procurement, and logistic support.

4. Counting Procedures

A. The purchases to be counted against the goals of the MOU will be identified jointly by DoD and MoD. In principle all defense items or components thereof, as defined in the basic MOU, (and associated services included in a procurement contract) purchased by MoD and DoD from the other country will be counted against the goals of the MOU as long as such purchases meet the following criteria:

1. Direct purchases by the MoD and DoD, including their respective agencies, one from the other.

2. Direct purchases by either the MoD or DoD from the industry of the other country.

3. Purchases by industry from the Government or industry of the other country in the framework of Government defense contracts.

4. Purchases by a Third Country Government from either US or Italian Governments or industrial sources as a direct result of commercial efforts of the other, non-supplying Country.

5. Procurements by either country of defense items resulting from common funded projects to which the US and Italy are contributors, to be credited in proportion to each country's financial contribution to the project, and to work carried out in each country. The extent to which such procurements will be counted against the goals of this MOU will be, at the time of procurement, mutually agreed between MoD and DoD on a case by case basis.

6. License fees, royalties and other associated income resulting from orders placed by DoD or MoD and/or industry in one country with a licensed company in the other country; or in MoD-DoD transactions.

B. The following non-defense items also will be counted against the goals of the MOU:

1. Purchases by the MoD or DoD from the industry of the other country, on behalf of other governmental departments and agencies.

2. Purchases by a Third Country Government from the MoD or DoD or from industries of these two countries as a direct result of the efforts of the MoD/DoD of the other country.

5. Administration

A. Each country will designate points of contact at the Ministry of Defense level.

B. MoD and DoD representatives will meet periodically, alternatively in each country, to review the projects undertaken in implementing the MOU. They will discuss development, production, procurement, and logistic support needs of each country and the likely areas of cooperation; they will update the financial statement referred to in Paragraph C below as a means of judging the progress of activity in the period under review; and they will consider other matters relevant to this MOU. Specific tasks of the representatives are:

1. Review of the status of the exchanges on the basis of the data, in comparable terms, to be agreed upon by the other party.

2. Consider additional steps necessary to facilitate the actions called for in paragraph 3.

C. An annual US/Italy statement consolidating the current balance of defense equipment research, development, production, procurement, and logistic support between the two countries, as well as the long term trends, will be prepared on a basis to be mutually agreed. Such statement shall take account of any US/Italy offset agreements in force at the time this MOU is signed, and shall be reviewed during the meetings referred to in Paragraph 5B above.

D. Quality assurance procedures outlined in STANAG 4107 and 4108 (subject to the USG reserve concerning US reimbursement) will apply unless other provisions are mutually agreed to on any specific contract. Reimbursement for services provided shall be in accordance with National laws and regulations of each country.

E. This annex, in two original texts in the Italian and English languages, both texts being equaly authentic, will come into effect at the date signed by both Governments.

For the United States Government.

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Dated: January 2, 1979.
For the Government of Italy.

——— ———,

January 2, 1979.

ANNEX II

To the Memorandum of Understanding Between the Government of the United States of America and the Government of Italy Concerning Mutual Cooperation in Defense Equipment Research and Development, Production and Procurement, Dated 11 September 1978

Principles Governing Logistic Support of Common Equipment

In implementing Article 1, paragraph 11 of the MOU, the two Parties shall be governed by the following:

1. When developing or procuring defense equipment, both Parties will agree upon the basis for joint follow-on logistic support in areas such as configuration control, interchangeability of assemblies, components and spare parts, maintenance, conversion, storage, and spare parts provisioning, etc.

2. Arrangements and procedures will be established concerning follow-on logistic support and other forms of logistic cooperation, e.g., joint utilization of facilities.

3. In the contracting procedures for logistic support, paragraph 9, Article 1 of the MOU normally shall apply. Coproduction, licensed production, or jointly developed equipment may be excluded from this policy at the option of the contracting Party or Parties.

4. Both Parties will issue directives and guidelines to their respective armaments and logistics agencies to achieve the described goals of this MOU.

5. This annex, in two original texts in the Italian and English languages, both texts being equally authentic, will come into effect at the date signed by both Governments.

For the United States Government.
For the Government of Italy.

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Dated: January 2, 1979.

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January 2, 1979.

ANNEX III

To the Memorandum of Understanding Between the Government of the United States and the Government of Italy Concerning Mutual Cooperation in Defense Equipment Research and Development, Production and Procurement, Dated 11 September 1978

Italian/American Committee for Mutual Cooperation

Terms of Reference

1. The Italian/American Committee for Mutual Cooperation (hereinafter referred to as "the Committee") will operate, under

the direct responsibility of the Authorities listed respectively at Article II, paragraphs 2 and 3 of the basic MoU, as the main agency tasked for the appropriate implementation of the MoU.

In particular, the Committee will ensure that the guiding principles of the MoU, governing mutual cooperation in the field of research and development, production, procurement and logistic support of conventional defense equipment are followed.

To this purpose, the Committee will meet annually, or more often when requested by the Government which deems it appropriate.

2. In particular, the Committee has been established in order to discuss problem areas hindering cooperation under the Agreement. Specifically, the Committee's charter is to:

2.1 Verify, through the exchange of information, the status of implementation of the MoU, and propose possible amendments if necessary;

2.2 Recommend, in order to facilitate a mutual flow of defense equipment, appropriate actions to pursue opportunities for cooperation in areas of research and development, production, procurement and logistic support to the maximum extent possible in accordance with national acquisition regulations;

2.3 Agree upon counting procedures and criteria for determining the current balance;

2.4 Prepare a yearly financial report on the interchange between the two countries, and on its trend at medium and long term;

2.5 Draw conclusions from the financial report, and promote possible corrective actions, as provided for by Article VI, paragraph 2-3 of the MoU;

2.6 Consider cases which one side or the other believes might involve improper refusals to requests for special transfers of defense articles and/or technical data to third ountries, in order to verify whether it is a eviation from the policy defined in Article paragraph 12 of the MoU; in this case, ward immediately a joint report on the ubject to the competent Authorities of oth Governments;

2.7 Examine, in compliance with paraaph 3.B.10 of Annex I, the problems reulting from the carrying out of Enclosure to this Annex, relevant to the preservaon of the mobilization base of the defense dustry;

2.8 Recommend visits by Authorities om time to time in order to explore actual ssibilities for cooperation in research and velopment, production, procurement and gistic support;

2.9 Prepare, at the end of each regular or traordinary meeting, a joint report for e respective Governments;

2.10 Examine any other subject of inter- to the MoU.

3. Furthermore, the Committee will review the steps taken to:

3.1 Ensure that the responsible Government offices and the national industries concerned are informed of meetings of interest to them, and that all important information resulting from the meetings is distributed in timely fashion;

3.2 Ensure that the objectives of collaboration on technology as implied in the basic MoU and stated in Enclosure B to this Annex, are met.

4. The regular meetings of the Committee will take place alternately in Italy and in the United States; the location of the extraordinary meetings will be agreed upon each time.

The National acting as host for a regular meeting, or requesting an extraordinary meeting, will provide the Chairman and the Secretariat.

5. This Annex, in two original texts in the Italian and English languages, both texts being equally authentic, will come into effect at the date signed by both Governments.

For the United States Government.

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For the Government of Italy.

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Enclosures: As Stated.

Annex IV to the Memorandum of Understanding Between the Government of the United States of America and the Government of Italy Concerning Mutual Cooperation in Defense Equipment, Research and Development, Production and Procurement, Dated 11 September 1978

Reciprocal Quality Assurance Services

1. *Preamble*

This Annex sets forth the terms, conditions, and procedures under which the participating governments shall provide one another with quality assurance services in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). The procedures of STANAG 4107 and AQAP-10 shall apply as supplemented by this Annex.

If special quality assurance arrangements are made for international co-operative projects in which the United States and Italy participate, those special arrangements shall have precedence over this Annex.

The objective of this Annex is to insure each participating government is able to employ the most effective and efficient quality assurance support possible when acting under this MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

2. *General*

A flexible arrangement is envisioned under which a purchasing government may, on a case-by-case basis, request full quality assurance support as described in AQAP-10 or, alternatively, request specified services listed in AQAP-10 as it considers appropriate to the circumstances. The purchasing government may elect to perform other necessary services through its own on-site representatives, and will inform the host government in such cases, in order to avoid duplication of the work performed by this one.

The purchasing government may modify a request for support during contract performance, after consultation with the host government.

The participating governments shall accept requests for services to the extent resources are available and carry them out according to the procedures each government uses for its own contracts.

Contracts shall contain suitable provisions for the host government to act for and on behalf of the purchasing government and shall authorize access to contractor facilities and records as necessary.

Where representatives of both participating governments deal with a contractor at the same location in support of the same or separate contracts, they shall operate in full concert according to terms of reference mutually agreed upon.

The participating governments shall each designate the office to receive requests for quality assurance services, as specified in the next paragraph. In addition, each participating government may elect to designate an office in or near the other participating country to act as a focal point through which requests for quality assurance will be forwarded. The host government will endeavor to keep the focal point appraised of current quality assurance practices and resources to help insure that requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirements and clarify requests for services as necessary.

3. *Procedures*

Requests for government quality assurance in Italy shall be directed to MINISTERO DELLA DIFESA-UFFICIO CENTRALE ALLESTIMENTI MILITARI-Via XX Settembre 123, 00100 Roma, Italy.

Requests for government quality assurance in the United States shall be directed to the Department of Defense Central Control Point, DCASR New York, 201 Varrick Street, New York, NY 10014.

The format requests for quality assur
shall be as described in Annex A
STANAG 4107, with the following addit
al information:

—in Block 7, the type of equipment wi
the materiel or spare parts are pertain
to, and the Armed Forces (Army, Na
and Air Force) that employs the eq
ment;

—in Block 10, desired services, if less th
comprehensive support is needed.

The requests shall reference STANA
4107 and this Annex to the MOU, and sh
be processed according to the procedures
the STANAG. The STANAG procedu
shall also be followed in regard to notifyi
the purchasing office of unsatisfactory c
ditions, processing deviations and waive
and issuing certificates of conformity.

Direct communications between the p
chasing office and the assigned quality a
surance office are authorized and encou
aged in resolving contract problems. T
purchasing government shall retain fi
authority over contract interpretations a
enforcement actions, and therefore sh
advise the quality assurance office in
timely fashion on such matters as needed.

In the event the purchasing governme
envisions the assignment of on-site repr
sentatives, proposed terms of reference d
scribing an appropriate working relation
ship with host government representative
will be suggested to the host government a
early as possible.

4. *Protection of Information*

Data obtained through implementation o
this Annex shall receive the same protec
tion against unauthorized disclosure as such
data would normally receive under the law
and rules of the country which possesses it

5. *Charges*

Services will be provided under this Annex
free of charge, provided that a joint review
of the services being exchanged between the
participating governments performed at not
less than three year intervals indicates that
general reciprocity is being maintained.

In the event either government deter
mines that charges will be necessary, they
may be imposed for future services after not
less than one year advance notice, applying
Foreign Military Sales procedures then in
effect.

6. *Termination*

This Annex may be terminated in writing
by either participant, to become effective
the last day of the sixth month after notice
of termination is given.

7. *Validity of Text*

The English language and Italian language versions of this text have equal validity.

For the Government of the United States of America

Date: Jan. 7, 1983.

For the Government of Italy

Date: Jan. 7, 1983.

T-207 PORTUGAL MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of Portugal and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research, Development, Production, Procurement and Logistic Support of Defense Equipment

Preamble

The Government of the United States of America and the Government of Portugal, duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the field of research, development, production, procurement, and logistic support in order to:

–Make the most cost-effective and rational use of the resources available for defense,

–Ensure the widest possible use of standard or interoperable equipment,

–Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to this Memorandum of Understanding (MOU), and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment.

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research, development, production, procurement and logistic support of conventional defense equipment.

The two Governments conclude this MOU to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements. They therefore agree that in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this MOU, the parties hereto will consult with a view to amending this MOU.

The two Governments further agree that this MOU should be viewed in the larger context of the cooperation between Europe and North America with the Alliance.

Article I—Principles Governing Mutual Defense Cooperation

1. Both Governments intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation

2. This MOU is intended to cover areas in which possible bilateral cooperation could be achieved in research, development, production, procurement, and logistic support of conventional defense equipment, complementing the work of the Conference of National Armament Directors (CNAD), the Independent European Program Group (IEPG), and the Senior NATO Logisticians Conference (SNLC).

3. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Alliance.

4. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, to the extent possible, adopt qualified defense items that have been developed or produced in the other country to meet their requirements.

5. The two Governments shall mutually determine the counting procedures to be laid down in an Annex to this MOU that will apply to all defense items and defense services purchased by them directly or through their relevant industries under this MOU.

6. Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to facilitate achievement of the aims of this MOU.

8. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in

each other's country for use by either country's defense establishment.

9. The detailed implementing procedures, to be agreed, will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals will be evaluated without applying price differentials under buy national laws and regulations and without applying the costs of import duties;

b. Full consideration will be given to all qualified industrial and/or governmental resources in each other's country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government for performance, quality, delivery, and costs.

10. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

11. Each Government will ensure that the technical data package (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on and performing a prospective defense contract, without the prior agreement of those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent to the originating Government.

12. Third party transfers of defense articles or technical data made available under this MOU, and of articles produced with such data, will be subject to the agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments.

13. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights.

14. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU and the terms of reference for a Portugal-U.S. Committee for Mutual Cooperation.

2. The Under Secretary of Defense for Research and Engineering will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Director General of Armaments and the Secretary of State for Light Industry will be the responsible authorities of the Government of Portugal for the development of implementing procedures under the MOU.

Article III—Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its territory the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with his industries in each nation.

Article IV—Security

1. To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this Memorandum of Understanding are classified by the furnishing Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

2. Information that has been provided by either of the Governments to the other on condition that it remain confidential shall either retain its original classification designation, or be assigned a classification designation, that shall ensure a degree of protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of information, that the information relates to the "Memorandum of Understanding" and Annexes thereto, and that the information is furnished in confidence.

Article V—Administration

1. The Portugal-U.S. Committee for Mutual Cooperation, referred to in Article II above, will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss research and development, production and procurement needs of each national and the likely areas of cooperation; agree to the basis of and keep under review, the financial statement referred to below; and consider any other matters relevant to this MOU.

2. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency under the Ministries of Defense.

3. An annual United States-Portugal statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two nations will be prepared on basis to be mutually agreed.

Article VI—Annexes

Annexes negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this MOU.

Article VII—Duration

1. This MOU will remain in effect for a ten-year period and will be extended for successive five-year periods, unless the Governments mutually decide otherwise.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VIII—Implementation

This MOU will come into effect on the date of the last signature.

For the Government of the United States of America.

The Secretary of Defense.

HAROLD BROWN.

Dated: March 28, 1979.

For the Government of Portugal.

The Minister of Defense.

JOSÉ ALBERTO LOUREIRO DOS SANTOS.

December 18, 1978.

ANNEX I TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PORTUGAL CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION, PROCUREMENT, AND LOGISTIC SUPPORT OF DEFENSE EQUIPMENT, DATED 28 MARCH 1979

Principles Governing Implementation

1. Introduction

On 28 March 1979, the Government of the United States and the Government of Portugal signed a Memorandum of Understanding (MoU) relating to the principles governing mutual cooperation in research and development, production, procurement, and logistic support of defense equipment. This document sets forth the agreed implementing procedures for carrying out the MoU.

2. Major Principles

2.1 The U.S. Department of Defense (DoD) and the Ministry of Defense of Portugal (MoD) will consider for their defense requirements qualified defense items and services developed or produced in the other country.

2.2 It will be the responsibility of government and/or industry representatives in each country to acquire information concerning the other country's proposed research, developments, and purchases and to respond to requests for proposals in accordance with the prescribed acquisition procedures and regulations of the purchasing nation. However, the responsible government agencies in each country will assist sources in the other country to obtain information concerning intended research and development, proposed purchases, necessary qualifications and appropriate documentation.

3. Action

DoD and MoD will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of this MoU, which are intended to be compatible with the broad aims of NATO Rationalization/Standardization, are taken into account. Recognizing that factors such as delivery date requirements for supplies, the interests of security, and the timely conduct of the contracting process are considerations, DoD and MoD agree that the following measures will be taken to ensure free and full competition for the award of contracts:

3.1 Ensure that their respective requirements offices are familiar with the principles and objectives of this MoU.

3.2 Ensure that their respective research and development offices are familiar with the principles and objectives of this MoU.

3.3 Ensure that their respective acquisition offices are familiar with the principles and objectives of this MoU.

3.4 Ensure wide dissemination of the basic understanding of this MoU to their respective defense industries.

3.5 Ensure that, to the extent permitted by national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such offers either price differentials under buy-national laws and regulations, or the cost of import duties. Provisions will be made for duty-free entry certificates and related documentation to the extent consistent with national laws and procedures.

3.6 Assist industries in their respective countries to identify and advise the other government of their production capabilities and assist such industries in carrying out the supporting actions to optimize industrial participation.

3.7 Review defense items and requests for services submitted as candidates for respective requirements. Identify requirements and proposed purchases in a timely fashion to ensure adequate time for their industries to participate in the acquisition process.

3.8 Make best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries.

3.9 Permit the sales of equipment produced under license to Allied countries, and to appropriate third countries, subject to the policy outlined in Article I, paragraph 12 of the basic MoU. Each agreement for a joint development or coproduction will address transfers of items or technology to Allied or third countries.

3.10 Ensure that those items and services excluded from consideration under this MoU for reasons of protecting overriding national requirements, such as the maintenance of a defense mobilization base (Appendix 1), are limited to a small percentage of total annual defense acquisition spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MoU because of legally imposed restrictions on acquisition from non-national sources, be identified as soon as possible by the MoD and the DoD, and that such defense items and services be kept under review at this level.

3.11 Ensure that the balance of reciprocal purchasing within the areas of this MoU take into consideration the levels of technology involved, as well as the contractual value, in accordance with the policy o lined in Article 1, paragraph 1 of the ba MoU.

3.12 Arrange visits between appropri government personnel from time to time order actively to explore possibilities for quisition and logistic support.

4. Counting Procedures

4.1 The purchases to be counted again the goals of the MoU will be identifi jointly by DoD and MoD. In principle, defense items or components thereof, as d fined in the basic MoU, and associated ser ices included in a procurement contrac purchased by MoD and DoD from the oth country will be counted against the goals the MoU as long as such purchases meet th following criteria:

4.1.1 Direct purchases by the MoD an DoD, including their respective agencie one from the other.

4.1.2 Purchases by either the MoD o DoD from the industry of the other coun try.

4.1.3 Purchases by industry from th Government or industry of the other coun try in the framework of Government de fense contracts.

4.1.4 Purchases by a third country gov ernment from either US or Portuguese Gov ernment or industrial sources as a direct result of commercial efforts of the other, non-supplying country.

4.1.5 Acquisitions by either country of defense items resulting from common funded projects to which the US and Portugal are contributors, to be credited in proportion to each country's financial contribution to the project, and to work carried out in each country. The extent to which such acquisitions will be counted against the goals of the MoU will be, at the time of procurement, mutually agreed between MoD and DoD on a case-by-case basis.

4.1.6 License fees, royalties and other associated income resulting from orders placed by DoD or MoD and/or industry in one country with a licensed company in the other country; or in MoD-DoD transactions.

4.2 The following non-defense items also will be counted against the goals of the MoU:

4.2.1 Purchases by the MoD or DoD from the industry of the other country, on behalf of other governmental departments and agencies.

4.2.2 Purchases by a third country government from the MoD or DoD or from industries of these two countries as a direct result of the efforts of the MoD/DoD of the other country.

5. Administration

5.1 Each country will designate points of contact at the Ministry of Defense level.

5.2 MoD and DoD representatives will meet periodically, alternately in each country, to review the projects undertaken in implementing the MoU. They will discuss acquisition and logistic support needs of each country and the likely areas of cooperation; they will update the financial statement referred to in paragraph 5.3 below as a means of judging the progress of activity in the period under review; and they will consider other matters relevant to this MoU. Specific tasks of the representatives are:

5.2.1 Review the status of acquisitions on the basis of the date available concerning such acquisitions, in comparable terms to be agreed upon by both Parties.

5.2.2 Consider additional steps necessary to facilitate the actions called for in paragraph 3.

5.3 An annual US/Portugal statement consolidating the current balance of defense equipment acquisition and logistic support between the two countries, as well as the long term trends, will be prepared on a basis to be mutually agreed.

5.4 Quality assurance procedures outlined in STANAG 4107 and 4108 (subject to the USG reservation concerning US reimbursement) will apply unless other provisions are mutually agreed to on any specific contract. Reimbursement for services provided shall be in accordance with national laws and regulations of each country.

5.5 This annex will come into effect on the date of the last signature.

For the Government of the United States of America.

Dated: July 7, 1980.

WILLIAM J. PERRY.

For the Government of Portugal National Armament Director and Ministry of Sec. State industry.

BRIG. JOSE MARIA DA COSTA ALVARES.

CARDOSO CUNHA.

December 12, 1979.

ANNEX II TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PORTUGAL CONCERNING MUTUAL COOPERATION IN DEFENSE EQUIPMENT RESEARCH AND DEVELOPMENT, PRODUCTION, PROCUREMENT, AND LOGISTIC SUPPORT, DATED 28 MARCH 1979

Principles Governing Logistic Support of Common Equipment

In implementing Article 1, paragraph 14 of the MoU, the two Governments shall be governed by the following:

1. When developing or procuring defense equipment, both Governments will agree upon the basis for joint follow-on logistic support in areas such as configuration control; interchangeability of assemblies, components and spare parts; maintenance; conversion; storage, spare parts provisioning; etc.

2. Arrangements and procedures for logistic support, paragraph 9, Article 1 of the MoU normally shall apply.

4. Both Governments will issue directives and guidelines to their respective armaments and logistics agencies to achieve the described goals of this MoU.

5. This annex will come into effect on the date of the last signature.

For the Government of the United States of America.

Dated July 7, 1980.

WILLIAM J. PERRY.

For the Government of Portugal National Armament Director & Ministry of Sec. State Industry.

BRIG. JOSE MARIA DA COSTA ALVARES.

CARDOSO CUNHA.

December 12, 1979.

ANNEX III TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PORTUGAL CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION, PROCUREMENT, AND LOGISTIC SUPPORT OF DEFENSE EQUIPMENT, DATED 28 MARCH 1979

Terms of Reference

1. The Portugal/U.S. Committee for Mutual Cooperation (hereafter to be called "the Committee") will serve under the direct responsibility of the authorities listed in Article II, sub 2 and 3 of the MoU, respectively, as the main body in charge of the adequate implementation of the MoU.

2. In particular, the Committee will be responsible for ensuring implementation of the MoU governing the mutual cooperation in research and development, production, acquisition and logistic support of conventional defense equipment. To this end the Committee members will meet as required, but not less than annually, to review progress in implementing the MoU. In this review:

2.1 They will discuss research, development, production, acquisition, and logistic support needs of each country and the likely areas of cooperation, including joint activities in those fields.

2.2 They will exchange information as to the way the stipulations of the MoU have been carried out and, if need be, prepare proposals for amendments of the MoU and/or its annexes.

2.3 They will agree to the financial statement of the current balance, given guidance for its yearly preparation and formulate conclusions from it, such conclusions to include any long term trends which may be established.

2.4 They will consider any other matters relevant to the MoU

2.5 They will report after each meeting and advise as appropriate.

2.6 The Committee will alternately meet in the United States and in Portugal. The country in which a particular meeting will take place will provide the chairman and the secretariat for that meeting.

For the Government of the United States of America.

Date July 7, 1980.

WILLIAM J. PERRY.

For the Government of Portugal National Armament Director & Ministry of Sec. State Industry.

BRIG. JOSE MARIA DA COSTA ALVARES.

CARDOSO CUNHA.

December 12, 1979.

T-208 BELGIUM MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of the Kingdom of Belgium and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research, Development, Production, Procurement and Logistic Support of Defense Equipment

Preamble

The Government of the United States of America and the Government of the Kingdom of Belgium duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the fields of research, development, production, procurement and logistic support in order to:

—Make the most cost-effective and rational use of their respective resources allocated to defense,

—Promote the widest possible use of standard or interoperable equipment,

—Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding (MOU),

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment, and

Mindful of the objectives described in Art. 3 of the North Atlantic Treaty and para. 4 of the final communique of the North Atlantic Summit Council of May 1977 wi regard to Alliance cooperation in view safeguarding Western Security,

Have entered into this Memorandum Understanding in order to achieve the abo aims.

This Memorandum of Understanding se out the guiding principles governing mutu cooperation in research, development, pr duction, procurement and logistic suppo of conventional defense equipment. Th conclusion of this MOU does not preclu other specific agreements for cooperation developing, producing, or co-producing, appropriate, items of defense equipment.

The two Governments conclude this MO to strengthen the North Atlantic Allianc The two Governments further agree th this MOU should be viewed in the larg context of the cooperation within the Al ance. In so doing, the Governments a fully aware that the Independent Europea Program Group (IEPG) want to enhanc equipment collaboration by more compr hensive and systematic arrangement among the indivudual member nations.

The parties hereto also agree that in th event of a possible conflict between th MOU and other agreements, they will co sult with a view to amending this MOU.

Article I—Principles Governing Reciproca Defense Cooperation

I. a. Both Governments intend to facil tate the mutual flow of defense procur ment for their armed forces, aiming at long term equitable balance in their e changes, taking into consideration the rel tive technological level of such procur ment, and consistent with their nationa policies.

b. Both Governments will make their bes efforts to facilitate defense R&D coopera tion, coproduction of defense equipmen and provision of opportunities to compet for procurement of defense services an equipment to include components, subsys tems, spare parts and major systems at al technological levels.

c. A long term equitable balance will no imply an equal monetary flow of defens procurement, but will take into accoun each country's financial, industrial, econom ic and commercial possibilities.

d. In order to assess the mutual flow of defense articles and services, the two Govern ments will jointly determine the counting procedures to be set down in an annex to this MOU that will apply to all defense articles and defense services purchased by them directly or through their respective industries under this MOU.

2. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for

production and procurement which are intended to optimize standardization and/or interoperability within the Alliance. They will do likewise with regard to offers of services.

3. In the interest of standardization and the effective utilization of scarce resources, the two Governments will, to the extent possible, select qualified defense articles and defense services that have been developed or produced in the other country to meet their requirements, in accordance with the procedures of paragraph 7 below. Defense articles or defense services are those articles or services which may be procured utilizing appropriated funds to the U.S. Department of Defense or budgeted funds of the Belgian Ministry of Defense.

4. Each Government will from time to time notify the other Government of defense articles and services that may only be acquired by the notifying Government from domestic sources, well as those defense articles and services that may be particularly suitable for acquisition by the other Government. Indicative lists of the latter will be provided in an annex to this MOU.

5. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to facilitate achievement of the aims of this MOU.

6. Competitive contracting procedures will normally be used in acquiring defense articles developed or produced in or defense services provided by each country for use by the other country's defense establishment.

7. The detailed implementing procedures to be agreed will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals of defense articles produced in or defense services provided by each country will be evaluated without applying price differentials under buy-national laws and regulations, and without applying the cost of applicable import duties. In the event that either party can no longer comply with the exemption from import duties, the parties hereto will consult with a view to amending this MOU;

b. Each country will give full consideration to all qualified sources in the other country. In addition, each country will give full consideration to all applications for qualification by sources in the other country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government concerning performance, quality, delivery and costs;

d. Provisions for duty-free certificates and related documentation;

e. Arrangements concerning quality control and audits of incurred costs and price proposals.

8. Both Governments will review defense articles and defense services submitted as candidates for their respective requirements. They will indicate requirements and proposed purchases in a timely fashion, in accordance with national regulations, to ensure adequate time for their respective industries to qualify for eligibility and to submit a bid or proposal.

9. Each Government will ensure that the technical data packages (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on or performing a prospective defense contract, without the prior agreement of those owning or controlling proprietary rights, and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent of the originating Government.

10. a. Transfers to third parties of defense articles or technical data made available under this MOU, and of articles produced with such data, will be subject to the prior written agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments.

b. Each Government will base its decisions regarding requests by the other for agreement to third party transfers on its laws, regulations and defense policies. Each Government will use the same criteria for proposed transfers by the other as it uses for itself, and will not reject, solely in the pursuit of its own national commercial advantage, a request from the other for a third country transfer of such defense articles or technical data. Third country transfers approved in accordance with this agreement will count in the calculation of the balance of exchanges as a purchase by the Government authorizing the transfer.

c. Consistent with the above, in carrying out its own transfers to third countries, each Government shall take into consideration the extent to which a proposed transfer may damage or infringe upon known licensing arrangements whereby commercial firms in the US or Belgium have granted to firms in the other country licenses for the manufacture of the articles proposed to be transferred to a third country.

11. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights. The two Governments will mutually make available to each other, to the extent possible and in a timely fashion, all information and the proprietary

rights required to implement cooperation under this MOU. The two Governments will, to the extent feasible, seek appropriate agreement with their industries that in the interest of standardization and armaments cooperation, proprietary rights in defense-relevant information and data can be transferred by appropriate arrangements and on fair and reasonable terms, between the industries of the two countries.

12. Arrangements and procedures will, at the request of the purchasing Government, be established concerning follow-on logistic support for items of defense equipment covered by this MOU. Both Governments will make their defense logistic system and resources available for this purpose if required and mutually agreed.

Article II—Implementation Procedures

1. Mutually agreed implementing procedures for this MOU will be established and be a part thereof.

2. Representatives of the two Governments will be appointed as the responsible authorities for the implementation of this MOU. The Under Secretary of Defense for Research and Engineering will be the representative for the United States Government. The National Armaments Director will be the representatives for the Government of Belgium.

3. The establishment of a Belgian-United States Committee for Mutual Cooperation and its rules of procedure and competence will be agreed upon in an annex to be made a part of this MOU.

4. Each Government will designate points of contact at the Ministry of Defense level and in the procurement offices under the Ministry of Defense. They will be listed in an annex to be made a part of this MOU.

Article III—Industry Participation

1. Each Government will be responsible for calling to the attention of its respective industries the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that their industries comply with the regulation pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve maximum industrial participation. Accordingly, the Governments will arrange that their respective acquisition and requirements offices be made familiar with the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas covered by this MOU shall rest with the industries in each country.

Article IV—Security

The General Security of Information Agreement, dated 9 August 1960 and the Agreement for Security Procedures for Industrial Operations, dated 24 July 1979, between the two Governments, apply to activities under this Memorandum of Understanding.

Article V—Annual Statement

An annual United States-Belgium statement of the current balance and long-term trends of R&D cooperation, procurement, maintenance and logistic support of defense equipment between the two nations will be prepared on a basis to be mutually agreed in an annex to this MOU and reviewed during the meetings of the Belgian-United States Committee for Mutual Cooperation, in accordance with its terms of reference.

Article VI—Annexes

Annexes negotiated by the responsible officials and approved by the appropriate government authorities will be incorporated into this MOU and become an integral part thereof as of the date of the last signature.

Article VII—Duration

1. This MOU will remain in effect for a ten-year period. Unless the Governments mutually decide otherwise, the duration will be extended for successive five-year periods.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or of any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the two Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to agree upon such actions as are necessary to alleviate problems that may result from the termination.

3. Although the MOU may be terminated by the parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VIII—Implementation

1. The agreements in this MOU represent the understanding reached between the Government of the United States of America and the Government of the Kingdom of Belgium upon the matters referred to herein. Each Government may propose amendments; both Governments must agree in writing to any amendment of this MOU.

2. Any difference of opinion over the interpretation and implementation of this MOU and its annexes will be resolved by consultation between the two Governments.

3. This MOU, in three original texts in the English, French and Dutch languages, all three texts being equally authentic, will come into effect on the date of the last signature.

For the Government of the United States of America.

Harold Brown,
The Secretary of Defense.

Date: 12 December 1979.

For the Government of the Kingdom of Belgium.

Jose Desmarets,
The Minister of Defense.

12 December 1979.

Annex I—Memorandum of Understanding Between the Government of the Kingdom of Belgium and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research and Development, Production, Procurement and Logistic Support of Defense Equipment Dated 12 December 1979

Principles Governing Implementation

1. Introduction

On 12 December 1979, the Governments of the United States and the Kingdom of Belgium signed a Memorandum of Understanding (MOU) relating to the principles governing mutual cooperation in the research, development, production, procurement and logistic support of defense equipment. This Annex sets forth the agreed implementing procedures for carrying out the MOU.

2. Major Principles

a. The U.S. Department of Defense (DoD) and the Ministry of Defense of Belgium (MOD) will consider for their defense requirements qualified defense items developed or produced in the other country.

b. It will be the responsibility of government and/or industry representatives in each country to acquire information concerning the other country's proposed research, developments, and purchases and to respond to requests for proposals in accordance with the prescribed procurement procedures and regulations. However, the responsible governing agencies in each country will assist sources in the other country to obtain information concerning intended research and development, proposed purchases, necessary qualifications and appropriate documentation.

3. Action

DoD and MOD will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of this MOU, which are intended to be compatible with the broad aims of NATO Standardization and Interoperability, are taken into account. DoD and MOD agree that the following measures shall be taken, recognizing that among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process, are considerations related to ensure free and full competition for the award of contracts:

1. Ensure that their respective requirements offices are familiar with the principles and objectives of the MOU.

2. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MOU.

3. Ensure that their respective acquisition offices are familiar with the principles and objectives of this MOU.

4. Ensure wide dissemination of the basic understanding of the MOU to their respective industries producing and/or developing defense items and/or services.

5. Ensure that, consistent with national laws and regulations, offers of defense items produced in the other country will be evaluated without applying to such officers, either price differentials under buy-national laws and regulations, or the cost of applicable import duties. Also, provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulations permit.

6. Assist industries in their respective countries to identify and advise the other government of their production capabilities and assist such industries in carrying out the supporting actions to maximize industrial participation.

7. Full consideration will be given to all qualified industrial and/or governmental sources in each other's country and to all applications for qualification by sources in the other country.

8. Review defense items submitted by the other country as candidates for respective requirements. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research and development, production and procurement processes.

9. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries, or other owners of such rights.

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10. Ensure that those items and services excluded from consideration under this MOU for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MOU because of legally imposed restrictions on procurement from non-national sources, be identified as soon as possible by the MOD and the DoD, and that such defense items and services be kept under review at this level.

11. Ensure that the balance of reciprocal purchases takes into consideration the levels of technology involved, as well as the monetary value of purchases hereunder and each country's financial, industrial, economic and commercial possibilities.

12. DoD and MOD will from time to time arrange visits in order to actively explore possibilities for cooperation on research and procurement, and logistical support and to examine any issues related to counting reports or procedures.

4. Counting Procedures

a. The purchases and other transactions to be counted against the goals of this MOU will be identified jointly by the DoD and MOD. In principle, all defense items and services purchased by the DoD and MOD from the other country will be counted as long as such purchases meet the following criteria:

1. Contracts resulting from direct purchases by the DoD or MOD, including their respective Agencies, one from the other.

2. Contracts resulting from purchases by either the MOD or DoD from the industry of the other country. When such purchases involve offset agreements between the Government of either country and the industry of the other country, the amount of such offset shall be applied in calculating the balance.

3. Purchases by industry from the Government or industry of the other country in the framework of Government defense contracts.

4. Purchases by a third country government from the US or Belgian Government or the industry of either country when either of the following circumstances occur:

—The sale requires the prior agreement of the non-vendor Government.

—The sale is a direct result of the promotional efforts by the Government or industry of the non-vendor country, which fact has been previously acknowledged and agreed by the vendor party.

5. Acquisitions by either country of defense items or services resulting from projects jointly funded by both countries.

6. License fees, royalties and other associated income resulting from orders placed by DoD or MOD and/or industry in one country with a licensed company in the other country; or in DoD-MOD transactions.

7. Transfers of technology, and production, testing and quality control equipment required to achieve the goals of this MOU.

8. Contributions by one country in research, development and demonstration programs in the other country that have been agreed by both Governments.

9. Purchases of non-defense items and services by the Government or industry of either country from the Government or industry of the other, provided that both Governments agree that any particular purchase is to be counted against the goals of this MOU.

b. The following transactions will *not* be counted:

1. Maintenance and logistic support activities in either country under contracts in effect before the effective date of this MOU.

2. Any transaction being carried out under contracts and agreements in effect before the effective date of this MOU.

3. Operational expenses of either Government to achieve the goals of this MOU.

c. Transactions listed in paragraph 4.a.1. and any others that both Governments agree, will be credited in the following manner:

1. At the value of the contract on its effective date.

2. Purchases by third countries of defense items or services from the US or Belgian Government or the industry of either country as described in paragraph 4.a.4. above, will be credited as a sale by the non-vendor country, as follows:

—When authorization by the non-vendor Government is required; the value of the item(s) directly related to the authorization will be credited.

—When the sale is the direct result of promotional efforts by the Government or industry of the non-vendor country; the value of parts, sub-assemblies, assemblies, equipment and services supplies by either the US or Belgian Government or their respective industries will be credited.

d. The following transactions will be credited in the manner and amounts agreed by both Governments:

1. License fees, royalties, and any other income resulting from transfer of technology, and production, testing and quality control equipment between both countries.

2. Orders placed by DoD or MOD and/or industry in one country with a licensed company in the other country, or from DoD-MOD transactions.

3. Contributions by one country in research, development and demonstration programs in the other country.

e. Transactions will be credited according to the exchange rate of the respective currencies on the effective date of the transaction.

f. Each Government will prepare an annual calendar year counting report. These reports will summarize the data counted pursuant to each of the categories above. Supporting data for each category included in the summary will indicate the item supplied, the parties to the transaction, transaction date, and credited value. Both Governments will exchange the summary reports and supporting data sufficiently in advance of the annual meeting to permit review and comment or agreement by the other at least two (2) weeks prior to the meeting. Any disagreement concerning the reports will be settled by the Belgian-US Committee for Mutual Cooperation established pursuant to paragraph 3 of Article II of the MOU.

5. Administration

a. Each Government will designate points of contact at the Ministry of Defense level, as well as within other relevant Departments and Agencies, for the purpose of carrying out those actions necessary to implement this MOU.

b. The Belgian-US Committee for Mutual Cooperation will be responsible for the general administration of this MOU. Its terms of reference are contained in Annex II.

c. Quality assurance procedures outlined in STANAGs 4107 and 4108 will apply, unless other provisions are mutually agree upon. Reimbursement for services provided shall be afforded in accordance with the national laws and regulations of each country.

For the Government of the United States of America.

——— ———,

Dated: 25 April 1983.

For the Government of the Kingdom of Belgium.

——— ———,

Dated: 25 April 1963.

ANNEX II—MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION, PROCUREMENT AND LOGISTIC SUPPORT OF DEFENSE EQUIPMENT DATED 12 DECEMBER 1979

Terms of Reference for the U.S./Belgian Committee for Mutual Cooperation

1. The Belgian-US Committee for Mutual Cooperation, hereinafter called "the Committee", referred to in paragraph 3 of Article II of the MOU, will operate under the direct responsibility of the Authorities cited in paragraph 2 of the same Article, or their respective representatives. It will be the main body responsible for implementation of the MOU.

2. To this end, the Committee will meet not less than once in each calendar year. The meetings will be devoted to reviewing the progress in implementing and accomplishing the MOU. In particular, it will review progress in removing obstacles to achievement of the MOU goals, and the effectiveness of definite actions that may be mutually agreed to reach these goals. Furthermore, the Committee will:

a. Discuss each country's requirements of research, development, production, procurement and logistic support of defense items, as well as the evaluation of possible areas for cooperation and activities to be jointly developed.

b. Exchange information as to the way the stipulations of the MOU have been implemented and carried out, and, if need be, prepare proposals for amendments to the MOU and/or its Annexes.

c. Review and approve the annual counting report on the trade balance to be prepared in accordance with the guidance contained in Annex I to this MOU. Formulate conclusions and recommendations from it, to include any long-term trends which may be established.

d. Consider any other matters relevant to the MOU.

3. The Committee will alternatively meet in Belgium and in the United States. Each country will appoint a Project Officer, who will jointly prepare the agenda for each subsequent meeting. The country in which a particular meeting takes place will provide the chairman and the secretariat who will be responsible for preparing the minutes of the meeting.

For the Government of the United States of America.

——— ———,

Date 25 April 1983.

For the Government of the Kingdom of Belgium.

——— ———,

Date 26-04-1983.

ANNEX III—MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH AND DEVELOPMENT, PRODUCTION, PROCUREMENT AND LOGISTIC SUPPORT OF DEFENSE EQUIPMENT DATED 12 DECEMBER 1979

Principles Governing Contract Administration Services

1. Introduction

This Annex sets forth the terms, conditions and procedures under which the Governments will provide each other with selected contract administration services and related information in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). It is recognized that in the event conflicts arise between any aspect of this Annex and the laws of either Government, the laws shall prevail.

2. Major Principles

The objective of this Annex is to insure each Government is able to employ the most effective and efficient contract administration support possible when acting under the MOU. Nothing is to be construed as impairing a purchasing Government's access to its contractors and their records as may be contractually authorized.

For the purpose of this Annex, contract administration shall include all those necessary actions, other than contract pricing and audit, to be accomplished at, or in proximity to, a firm's place of business to assist the purchasing office in evaluating a prospective contractor's capabilities and in monitoring and enforcing awarded contracts. This Annex supplements NATO Standardization Agreement (STANAG) 4107, hereby incorporated by reference in regard to reciprocal quality assurance.

3. General

The purchasing Government may request specific services and information selected from those listed in Appendix 1 to this Annex which it considers appropriate to the circumstances. The purchasing Government may elect to obtain additional support through its own on-site representatives provided there is no duplication of work performed by the host Government. In addition, the host Government will use its best efforts to supply information requested by the purchasing Government but not listed in this Annex when necessary to support contract award, enforcement, or termination. The provision of any services and information other than those defined in Appendix 1 will be on a cost reimbursable basis. The purchasing Government may modify a request for support during contract performance after consultation with the host Government.

The host Government shall accept requests for services to the extent resources are available and carry them out according to the procedures that Government uses for its own contracts.

Contracts shall contain suitable provisions for the host Government to act for and on behalf of the purchasing Government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of either Government deal with a contractor at the same location in support of the same contract or separate contracts, they shall act in full concert according to terms of reference mutually agreed or to be agreed upon.

Each Government shall designate a single office to receive requests for contract administration services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each Government may elect to designate an office in or near the other's country to act as a focal point through which requests for support will be forwarded. The host Government will endeavor to keep the purchasing Government's focal point apprised of current contract administration practices and resources to help insure requests for services are reasonable and prudent. The focal point shall advise the host Government concerning contract requirements and clarify requests for services as necessary.

4. Procedures

Requests for contract administration in the Kingdom of Belgium shall be directed to: Commission Interforces d'Evaluation, en Assurance de la Qualite, Quarter Reine Elisabeth—Bloc 11, Rue d'Evere 1, B 1140 Brussel, Belgium, Tel 2/243 40 21, TWX 21339CTRMODB.

Requests for contract administration in the United States shall be directed to: The Department of Defense Control Point, DCASR New York, 201 Varrick Street, New York, New York 10014, Tel 212/374-3446.

Contract administration requests will be accompanied by the number of copies of the request for proposal or awarded contract, as appropriate, prescribed in STANAG 4107 and will specify the contract administration services desired. Every effort will be made to forward support requests simultaneously with the forwarding of awarded contracts to the contractor. The format shall be as described in Annex A to STANAG 4107, with desired services other than quality assurance specified in Block 10. If less than comprehensive quality assurance is needed, the desired services selected from Allied Quality Assurance Publication (AQAP) 10 shall be specified in Block 10. Requests shall reference this Annex to the MOU and shall be processed according to the procedures in STANAG 4107 with due regard to Section VII of this Annex. In principle, acceptance or rejection shall be made within 30 calendar days of receipt by the host Government.

Direct communications between the purchasing office and the assigned contract administration office in resolving contract problems are authorized and encouraged. The purchasing Government shall retain final authority over contract interpretations and enforcement actions, and shall advise the contract administration office on such matters as needed.

In the event the purchasing Government envisions the assignment of in-plant representatives, proposed terms of reference describing an appropriate working relationship with host Government representatives will be suggested to the host Government as early as possible.

5. Responsibility and Liability

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex on behalf of the other Government.

6. Protection of Information

Data obtained through the implementation of this Annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

7. Charges

Services defined in Appendix 1 and provided under this Annex will be free of charge, ubject to a joint review of the services eing exchanged at not less than three-year ntervals. If, as a result of such a joint eview, either Government determines that harges will be necessary, they may be imosed after not less than one year advance otice. Should such charges by the U.S. overnment become necessary, or should e USG provide services other than those efined in Appendix 1, Foreign Military ales Procedures then in effect will apply.

8. Duration

This Annex will remain in effect for a riod as set forth in ARTICLE VII of the OU, and may be terminated under the nditions as set forth in that Article.

9. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America.

——— ———,

Date April 26, 1983.

For the Government of the Kingdom of Belgium.

——— ———,

Date 04-26-1983.

Appendix 1. Services to be Exchanged.

APPENDIX 1 TO ANNEX III—SERVICES TO BE EXCHANGED

In accordance with the principles and procedures as set forth in this Annex the following services will be performed by the host Government within its national boundaries upon requests by and on behalf of the purchasing Government:

1. Support evaluations of contractor capabilities prior to award.

a. Supply available information concerning design, production, and quality control capabilities as appropriate; for example, the amount of available floor space, plant equipment, skilled and unskilled workers, past production of similar items, and the NATO Allied Quality Assurance Publications (AQAPs) against which the firm has been assessed.

b. Evaluate the financial strength of the prospective contractor, estimate the likelihood that financial resources will be sufficient to accomplish the contract, and report the monetary value (in local currency) of host Government capital assets furnished or made available to the contractor which may be used in the contract.

c. Provide access to available accounting system disclosure statements and assistance in determining the system's ability to meet contractual requirements.

2. Perform Government quality assurance, as defined in STANAG 4107, in whole or in part as requested.

3. Report detected potential or actual slippages in contract delivery schedules or any other contractor difficulties which might affect contract performance.

4. Assess contract progress if needed by the purchasing office to authorize financial payments, and recommend approval or disapproval of contractor payment requests.

5. Evaluate the feasibility and practicality of contractor production plans.

6. Verify contractor management reports furnished to the purchasing office during contract performance.

7. Evaluate and monitor contractor compliance with contract requirements governing technical data, especially the propriety

of any restrictive markings on data offered for delivery under the contract.

8. Monitor contractor costs under cost reimbursement contracts, and insure the purchasing office is advised of any anticipated overruns or underruns of estimated costs.

9. Advise the purchasing office of supporting contract administration is needed at subcontractor plants to verify the adequacy of prime contractor management, and assist the purchasing Government to obtain desired support within the host country.

T-209 DENMARK MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of the Kingdon of Denmark and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in the Research, Development, Production, Procurement and Logistic Support of Defense Equipment

Preamble

The Government of the United States of America and the Kingdom of Denmark duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the fields of research, development, production, procurement and logistic support in order to:

—Make the most cost-effective and rational use of the resources available for defense,

—Ensure the widest possible use of standard or interoperable equipment,

—Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding (MOU), and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment,

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research, development, production, procurement and logistic support of conventional defense equipment.

The two Governments conclude this MOU to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements. They therefore agree that in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this MOU, the parties hereto will consult with a view to amending this MOU.

The two Governments further agree that this MOU should be viewed in the larger context of the cooperation between Europe and North America within the Alliance.

Article I—Principles Governing Mutual Defense Cooperation

1. Both Governments intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation.

2. This MOU is intended to cover areas in which possible bilateral cooperation could be achieved in research, development, production, procurement and logistic support of conventional defense equipment, complementing the work of the Conference of National Armament Directors (CNAD), the Independent European Program Group (IEPG), and the Senior NATO Logisticians Conference (SNLC).

3. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Alliance.

4. In the interests of standardization and effective utilization of scarce resources, the two Governments shall, to the extent possible, adopt qualified and cost-effective defense items that have been developed or produced in the other country to meet their requirements. Defense items or services are those items or services which may be procured utilizing appropriated funds of the U.S. Department of Defense or budgeted funded of the Danish Ministry of Defense.

5. The two Governments shall mutually determine the counting procedures to be laid down in an Annex to this MOU that will apply to all defense items and defense services purchased by them directly or through their relevant industries under this MOU.

6. Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to facilitate achievement of the aims of this MOU.

8. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each other's country for use by either country's defense establishment.

9. The detailed implementing procedures, to be agreed, will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals will be evaluated without applying price differentials under by national laws and regulations and without applying the costs of import duties;

b. Full consideration will be given to all qualified industrial and/or governmental resources in each other's country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government for performance, quality, delivery, and costs.

10. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

11. Each Government will ensure that the technical data packages (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on and performing a prospective defense contract, without the prior agreement of those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent of the originating Government.

12. Third party transfers of defense articles or technical data made available under this MOU, and of articles produced with such data, will be subject to the agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments.

13. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights.

14. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU and the terms of reference for a Danish-U.S. Committee for Mutual Cooperation.

2. The Under Secretary of Defense for Research and Engineering will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Armaments Director in the Ministry of Defense will be the responsible authority of the Kingdom of Denmark for the development of the implementing procedures under this MOU.

Article III—Industry Participation

1. Each Government will be responsible for calling to the attention of its relevant industries the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industries in each nation.

Article IV—Security

1. To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this Memorandum of Understanding are classified by the furnishing Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

2. Information that has been provided by either of the Governments to the other on condition that it remain confidential shall either retain its original classification designation, or be assigned a classification designation, that shall ensure a degree of protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of information that the information relates to the Memorandum of Understanding and Annexes thereto, and that the information is furnished in confidence.

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Article V—Administration

1. The Danish-U.S. Committee for Mutual Cooperation, referred to in Article II above, will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss research and development, production and procurement and logistics support needs of each nation and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to this MOU.

2. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency under the Ministries of Defense.

3. An annual United States-Denmark statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two nations will be prepared on a basis to be mutually agreed.

Article VI—Annexes

Annexes negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this MOU and made an integral part thereof.

Article VII—Duration

1. This MOU will remain in effect for a ten-year period and will be extended for successive five-year periods, unless the Governments mutually decide otherwise.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

Article VIII—Implementation

This MOU will come into effect on the date of the last signature.

For the Government of the United States of America.

HAROLD BROWN,
The Secretary of Defense.

Date: 30 January 1980.

The Kingdom of Denmark.

POUL SOGAARD,
The Minister of Defense.

Date: 2 January 1980.

ANNEX—RECIPROCAL QUALITY ASSURANCE SERVICES UNDER THE MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES AND DENMARK REGARDING DEFENSE R&D, PRODUCTION, AND PROCUREMENT

I. Preamble

This annex sets forth the terms, conditions and procedures under which the participating governments shall provide one another with quality assurance services in support of defense contracts and subcontracts contemplated or executed under the Memorandum of Understanding (MOU). The procedures of STANAG 4107 and AQAP 10 shall apply as supplemented by this annex to the extent consistent with the laws of both governments.

If special quality assurance arrangements are made for international cooperative projects in which the United States and Denmark participate, those special arrangements shall have precedence over this annex. Purchases by Denmark under the Foreign Military Sales (FMS) Program will be handled under U.S. FMS procedures in existence at the time of acceptance of the FMS agreement. Normally, FMS purchases will be afforded the same quality assurance that is provided for similar DoD procurements for use by the U.S. DoD. Similar provisions will apply, to be changed if necessary, to U.S. Government purchases from the Danish Government.

The objective of this annex is to insure each participating government is able to employ the most effective and efficient quality assurance support possible when acting under this MOU. Nothing is to be construed as impairing a purchasing government's access to its contractors and their records as may be contractually authorized.

II. General

A flexible arrangement is envisioned under which a purchasing government may, on a case-by-case basis, request full quality assurance support as described in AQAP-10 or, alternatively, request specified services listed in AQAP 10 as it considers appropriate to the circumstances, for the purchase of defense items made outside of government-to-government channels. The purchasing government may elect to perform other necessary services through its own on-site representative and will inform the host government in such cases, in order to avoid duplication of the work performed by the host government. The purchasing government may modify a request for support during contract performance after consultation with the host government.

The participating governments shall accept requests for services to the extent resources are available and carry them out according to the procedures each government uses for its own contracts.

–Contracts shall contain suitable provisions for the host governments to act for and on behalf of the purchasing government and shall authorize access to contractor facilities and records and use of contractor assets as necessary for the performance of contract administration services.

Where representatives of both participating governments deal with a contractor at the same location in support of the same or separate contracts, they shall operate in full concert according to terms of reference mutually agreed or to be agreed upon.

The participating governments shall each designate a single office to receive requests for quality assurance services. This office shall arrange for the required services to be performed by the appropriate national organization. In addition, each participating government may elect to designate an office in or near the other participating country to act as focal point through which requests for quality assurance will be forwarded. The host government will endeavor to keep the purchasing Government's focal point apprised of current quality assurance practices and resources to help insure that requests for services are reasonable and prudent. The focal point shall advise the host government concerning contract requirement and clarify requests for services as necessary.

III. Procedures

Request for government quality assurance in Denmark shall be directed to (name and address of receiving focal point).

Requests for government quality assurance in the United States shall be directed to (address).

The format for requests for quality assurance shall be as described in Annex A to STANAG 4107, with the following additional information:

–in block 7, the type of equipment which the material or spare parts pertaining to, and the Armed Forces (Army, Navy, and Air Force) that employs the equipment;

–in block 10, desired services, if less than comprehensive support is needed.

The requests shall reference STANAG 4107 and this annex to the MOU, and shall e processed according to the procedures in he STANAG. Acceptance or rejection shall e made within 30 calendar days of receipt y the performing government. The TANAG procedures shall be followed in egard to notifying the purchasing office of nsatisfactory conditions, processing deviations and waivers, and issuing certificates of conformity.

Direct communications between the purchasing office and the assigned quality assurance office are authorized and encouraged in resolving contract problems. The purchasing government shall retain final authority over contract interpretations and enforcement actions, and shall advise the quality assurance office in a timely fashion on such matters as needed.

In the event the purchasing government envisions the assignment of on-site representatives, proposed terms of reference describing an appropriate working relationship with host government representatives will be suggested to the host government as early as possible.

IV. Responsibility and Liability

Nothing in this annex shall relieve the contractor of any responsibilities under the contract. No liability will attach to the Government, its officers or agents, acting under this Annex.

V. Protection of Information

Data obtained through implementation of this annex shall receive the same protection against unauthorized disclosure as such data would normally receive under the laws and rules of the country which possesses it.

VI. Charges

Services will be provided under this annex free of charge, for all contracts, subcontracts, and FMS Letters of Offer and Acceptance entered into on or after the date of implementation of this annex, provided that a joint review of the services being exchanged between the participating governments performed at not less than three year intervals indicates that general reciprocity is being maintained. If, as a result of such a joint review, either government determines that charges will be necessary, they may be imposed for future services after not less than one year advance notice. Should charges by the United States become necessary, Foreign Military Sales procedures then in effect will apply.

VII. Duration

This annex will remain in effect for a period as set forth in Article VII of the MOU, and may be terminated under the conditions as set forth in that Article.

VIII. Validity of Text

The English language and Danish language versions of this text have equal validity.

IX. Implementation

This Annex will come into effect on the date of the last signature.

For the Government of the United States of America.

—— ——.

Date 19 Sep 1984.

For the Government of the Kingdom of Denmark.

—— ——.

3/4/1985.

T-210 LUXEMBOURG MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding on Reciprocal Defense Procurement

Preamble

The Government of the United States of America and the Government of the Grand-Duchy of Luxembourg, hereinafter referred to as the "Governments":

Intending to increase their respective defense capabilities through more efficient cooperation in the areas of research and development, production, procurement and logistic support of defense equipment, in order to:

—Make the most cost-effective and rational use of the resources allocated to defense;

—Promote the widest possible use of standard or interoperable equipment; and,

—Develop and maintain an advanced technology capability for the North Atlantic Alliance, and particularly with respect to the Parties to this Agreement;

Noting the potential for increased purchases of defense items by the United States from Luxembourg and from the United States by Luxembourg, and recognizing the desirability of working toward a long term equitable balance in defense trade between the two countries;

Recognizing that suppliers in each country should be afforded the opportunity to compete, on a reciprocal basis, for the procurement of defense products, equipment, materials and services, hereinafter referred to as "defense items and services";

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research, development, production, procurement and logistic support of conventional defense equipment. The conclusion of this MOU does not preclude other specific agreements for cooperation in developing, producing, or co-producing, as appropriate, items of defense equipment.

Article 1—Principles Governing Mutual Defense Cooperation

1.1.1. Both Governments intend to faci
tate the mutual flow of defense procur
ment for their armed forces, aiming at
long-term equitable balance in their e
changes, taking into consideration the rel
tive technological level of such procur
ment, and consistent with their nation
policies. A long-term equitable balance wi
not imply an equitable monetary flow of de
fense procurement, but will take into ac
count each country's financial, industria
economic and commercial possibilities.

1.1.2. Both Governments will make thei
best efforts to facilitate defense R&D coop
eration, coproduction of defense equipmen
and provision of opportunities to compete
for procurement of defense items and serv
ices to include systems, subsystems, compo
nents, and spare parts at all technologica
levels.

1.1.3. In order to assess the mutual flow
of defense procurement, the Governments
have jointly determined counting proce
dures which are set down in Annex 1 to this
Agreement, and which will apply to all de
fense items and services purchased by them
directly or through their respective indus
tries under this Agreement. Defense items
and services are those items and services
which may be procured utilizing appropri
ated funds of the United States Department
of Defense or budgeted funds of the Minis
try of Defense of Luxembourg.

1.2. The Governments will, consistent
with their relevant laws and regulations
give full and prompt consideration to all re
quests for cooperative R&D, and to all re
quests for production and procurement
which are intended to enhance standardiza
tion and/or interoperability within the At
lantic Alliance.

1.3. In the interests of standardization
and the effective utilization of scarce re
sources, each Government shall, to the
extent possible, adopt qualified defense
items that have been developed or produced
in the other country to meet the require-
ments of the Government of such country.

1.4. Each Government shall from time to
time notify the other Government of de-
fense items that may not be acquired by the
notifying Government from other than do-
mestic sources, as well as those defense
items that may be particularly suitable for
acquisition by the other Government.

1.5. Both Governments will provide ap-
propriate policy guidance and administra-
tive procedures within their respective de-
fense acquisition organizations to achieve
and maintain the equitable balance men-
tioned in Article 1.1.1. of this Agreement, as
well as the other aims of this Agreement.

1.6. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each country for use by the other country's defense establishment.

1.7. Both Governments agree that consistent with and to the extent permitted by national laws and regulations, mutually agreed implementing procedures will incorporate the following:

1.7.1. Offers or proposals of defense items produced in or defense services provided by each country will be evaluated without applying price differentials under "buy national" laws and regulations, and without applying the cost of applicable import duties. In the event that either party can no longer comply with the exemption from import duties, the parties hereto will consult with a view to amending this MOU;

1.7.2. Each country will give full consideration to all qualified sources in the other country. In addition, each country will give full consideration to all applications for qualification by sources in the other country;

1.7.3. Offers or proposals will be required to satisfy requirements of the purchasing Government concerning performance, quality, delivery and costs;

1.7.4. Provisions for duty-free certificates and related documentation;

1.7.5. Arrangements concerning quality control and audits of incurred costs and price proposals.

1.8. Both Governments will review defense items and services submitted as candidates for their respective requirements. They will indicate requirements and proposed purchases in a timely fashion, in accordance with national regulations, to ensure adequate time for their respective industries to qualify as eligible suppliers and to submit a bid or proposal.

1.9. Technical Data Packages (TDPs) shall not be transferred between the two countries without the written permission of those owning or controlling any associated proprietary rights. Each Government will ensure that any TDPs which it may receive from the other are not used for any purpose other than for the purpose of offering or bidding on or performing a prospective defense contract, without the prior written agreement of those owning or controlling proprietary rights, and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain.

1.10.1 Transfers to third parties of defense articles or technical data made available under this Agreement, and of articles produced with such data, will be subject to the prior written agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments or in multilateral agreements to which both Governments are parties.

1.10.2. Each Government will base its decisions regarding requests by the other for agreement to third party transfers on its laws, regulations and policies. Each Government will use the same criteria for proposed transfers by the other as it uses for itself, and will not reject, solely in the pursuit of its own national commerical advantage, a request from the other for a third country transfer of such defense articles or technical data.

1.11. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights. Consistent with its laws and regulations, each Government will make available to the other all information necessary to implement cooperative arrangements under this Agreement. To the extent feasible, both Governments will seek an understanding with their respective industries that, in the interest of standardization and defense industrial cooperation, proprietary rights in defense-relevant information and data can be transferred by appropriate arrangements between the industries of the two countries.

1.12. Arrangements and procedures will, at the request of the purchasing Government, be established concerning follow-on logistic support for items of defense equipment purchased pursuant to this Agreement. Each Government will make its defense logistic systems and resources available to the other for this purpose as required and mutually agreed.

Article 2—Implementing Procedures

2.1. Both Governments agree to create a Joint United States-Luxembourg Committee for Defense Industrial Cooperation.

2.2. The Under Secretary of Defense for Research and Engineering will be the responsible authority in the United States Department of Defense for the development of implementing procedures under this Agreement.

2.3. The Director of Foreign Trade, in cooperation with the appropriate bodies of the Ministry of Defense, will be the responsible authority to the Government of Luxembourg for the development of implementing procedures under this Agreement.

2.4. The United States-Luxembourg Committee for Defense Industrial Cooperation will be co-chaired by the authorities referred to in paragraphs 2.2 and 2.3, above, or their designated representatives. The Committee will meet as agreed at the request of either Government, but a minimum of once a year to review progress in implementing this Agreement. It will discuss the research, development, production, procurement and logistics support needs of each country and the likely areas of cooperation; agree to the basis of and keep under review the financial statement referred to in paragraph 2.6, below; and consider any other matters relevant to this Agreement.

2.5. Each Government will designate points of contact at the Ministry/Department of Defense level, in each purchasing Service/Agency under the Ministry/Department of Defense, and with other Government Departments and Agencies as appropriate.

2.6. An annual United States-Luxembourg statement of the current balance and long-term trends of R&D cooperation, production, and purchases between the two countries will be prepared on a basis to be mutually agreed.

Article 3—Industry Participation

3.1. Implementation of this Agreement will involve maximum industrial participation. Notwithstanding the governmental procedures to facilitate the implementation of this Agreement, it will be the basic responsibility of the industries in each country to identify and advise their Government of their respective capabilities for cooperation and to carry out the supporting actions to bring industrial participation to consummation.

3.2. Each Government will be responsible for calling to the attention of its relevant industries the basic understanding of this Agreement and the appropriate implementing guidance. Both Governments will take all necessary steps to ensure that their industries comply with the regulations pertaining to security and to safeguarding classified information.

3.3. The Governments will arrange that their respective defense acquisition organizations are made familiar with the principles and objectives of this Agreement, and will assist sources in the other country to obtain information concerning proposed purchases, necessary qualifications and appropriate documentation.

3.4. To encourage the exchange of information in accordance with the purpose of this Agreement, each Government will, pursuant to its national laws and regulations, take action to facilitate participation by properly cleared officials and representatives of the other country in informational symposia, program briefings and prebid conferences, as well as access to publications and visits to installations.

Article 4—Security

4.1. The General Security of Information Agreement dated 17 September 1981, between the two Governments, with particular reference to industrial security, apply to activities under this Memorandum of Und standing.

4.2. To the extent that any items, pla specifications, or information furnished connection with the implementation of th Agreement are classified by the furnishi Government for security purposes, t other Government shall maintain a simil classification and employ security measur equivalent to those employed by the clas fying Government.

4.3. Information provided by either Go ernment to the other on condition that remain confidential shall either remain i its original classification or be assigned classification that ensures protectio against disclosure equivalent to that r quired by the other Government. To assis in providing the desired protection, eac Government will mark such informatio furnished with a legend indicating th origin of the information, that the informa tion relates to this Agreement, and that th information is furnished in confidence.

Article 5—Duration

5.1. This Agreement will enter into force when signed, and will remain in force for a period of ten (10) years from the last date of signature.

5.2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or of any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the two Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to agree upon such actions as are necessary to alleviate problems that may result from the termination.

5.3. Notwithstanding the expiration or termination of this Agreement, any contract entered into consistent with the terms of this Agreement will continue in effect, unless the contract is terminated in accordance with its own terms.

5.4. Articles 1.9, 1.10 and Article 4 of this Agreement will continue in full force and effect after, and notwithstanding the expiration or termination of this Agreement.

Article 6—Annexes

6.1. Annexes which may be negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this Agreement and made an integral part thereof.

Done in Luxembourg, this 2 day of December —, in duplicate.

For the United States of America.

——— ———,

For the Grand-Duchy of Luxembourg.

——— ———,

Memorandum of Understanding on Reciprocal Defense Procurement

Annex 1—Principles Governing Implementation

Article 1—Introduction

This Annex sets forth the procedures agreed upon by the Governments of the United States and the Grand-Duchy of Luxembourg to implement the Memorandum of Understanding on Reciprocal Defense Procurement, hereinafter referred to as "The MOU".

Article 2—Major Principles

2.1 Each Government will consider for its defense requirements qualified defense items and services developed or produced in the other country.

2.2 The responsible Government authorities in each country will assist sources in the other country to obtain appropriate information concerning:

2.2.1 Plans and programs for research, development, production and acquisition of defense items and services.

2.2.2 Requirements for the qualification of sources.

2.2.3 Specifications and quality assurance standards.

Both Governments will respond promptly to requests for information that comply with their respective regulations and procedures. However, notwithstanding the governmental procedures established to facilitate the Agreement, it will be the responsibility of Government and/or industry representatives in each country to acquire information concerning the other country's research, development and procurement plans and to respond to solicitations in accordance with the prescribed acquisition regulations and procedures of the purchasing country.

Article 3—Actions

3.1 Both Governments will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of this Agreement, which are intended to be compatible with the broad aims of NATO Standardization and Interoperability, are taken into account. Reognizing that factors such as delivery date requirements for supplies, the interest of security, and the timely conduct of the contracting process must be considered, both Governments agree that the following measures will be taken to ensure free and full competition for the award of contracts:

3.1.1 Ensure that, as a minimum, the following entities are familiar with the principles, objectives and terms of the Agreement:

—Their respective defense planning, programming, and contracting offices.

—Their respective offices responsible for defense imports and exports.

—Their respective agencies and industries responsible for the research, development, and production of defense items and/or services.

3.1.2 Ensure that, consistent with national laws and regulations, offers of defense items developed and/or produced in the other country will be evaluated without applying to such offers either price differentials under "buy-national" laws and regulations, or the cost of import duties.

3.1.3 Consistent with national laws and regulations, provisions will be made for duty-free entry certificates and related documentation.

3.1.4 Assist industries in their respective countries to advise the other Government of their capabilities, and assist such industries in carrying out the support actions to maximize industrial participation in the implementation of the Agreement.

3.1.5 Consider defense items and service offered by the Government or industry of the other country as candidates for their respective requirements. Identify specific requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research, development, production and procurement processes.

3.1.6 Use their best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes.

3.1.7 Permit the sale of defense equipment produced under license, coproduction agreements and/or joint development projects to allied countries and to appropriate third countries, subject to the policy outlined in Article 1.10 of the Agreement. Each agreement for a joint development or coproduction will address transfers of items or technology to allied or third countries.

3.1.8 Ensure that those items and services excluded from consideration under this Agreement for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. Such defense items and services, together with those items and services that must be excluded from consideration under this Agreement because of legally imposed restrictions on acquisition from non-national sources, will be identified as soon as possible by both Governments. Lists of these items and services will be prepared and kept under review at this level.

3.1.9 Pursuant to its national laws and regulations, facilitate arrangements for visits by properly cleared Government officials and industry representatives of the other country to explore and actively promote cooperation possibilities for research, development, production, procurement and logistic support of defense equipment.

3.2 Both Governments will ensure that their respective actions under the Agreement in working toward an equitable balance in defense trade, take into consideration the level of technology involved as well as the contractual value of the items being purchased.

Article 4—Counting Procedures

4.1 The purchases and other transactions to be counted against the goals of this Agreement will be identified jointly by the two Governments. In principle, all defense items and services purchased by one Government from the other country will be counted as long as such purchases meet the following criteria:

4.1.1 Direct purchases by the defense agencies, one from the other.

4.1.2 Purchases by defense agencies of either country from the industry of the other country.

4.1.3 Purchases by industry from the Government or industry of the other country in the framework of Government defense contracts.

4.1.4 Purchases by a third country government from the Government of the United States or the Government of Luxembourg or the industry of either country when either of the following circumstances occur:

—The sale requires the prior agreement of the non-vendor Government.

—The sale is a direct result of the promotional efforts by the Government or industry of the non-vendor country, which fact has been previously acknowledged and agreed by the vendor party.

4.1.5 Acquisitions by either country of defense items or services resulting from projects jointly funded by both countries.

4.1.6 License fees, royalties and other associated income resulting from orders placed by defense agencies of one country with a licensed company in the other country; or in Government-to-Government transactions.

4.1.7 Transfer of technology, and production, testing and quality control equipment required to achieve the goals of this Agreement.

4.1.8 Contributions by one country in research, development and demonstration programs in the other country that have been agreed by both Governments.

4.1.9 Purchases of non-defense items an services by the Government or industry either country from the Government or in dustry of the other, provided that bot Governments agree that any particular pu chase is to be counted against the goals o this Agreement.

4.2 The following transactions will *not* b counted:

4.2.1 Maintenance and logistic suppor activities in either country under contract in effect before the effective date of thi Agreement.

4.2.2 Any transaction being carried ou under contracts and agreements in effec before the effective date of this Agreement.

4.2.3 Operational expenses of either Government to achieve the goals of this Agreement.

4.3 Transactions listed in Article 4.1 of this Annex, and any others that both Governments agree, will be credited in the following manner:

4.3.1 At the value of the contract on its effective date.

4.3.2 Purchases by third countries of defense items or services from the United States Government or the Government of Luxembourg or the industry of either country as described in paragraph 4.1.4. of this Annex, will be credited as a sale by the non-vendor country, as follows:

—When authorization by the non-vendor Government is required; only the value of the item(s) directly related to the authorization will be credited.

—When the sale is the direct result of promotional efforts by the Government or industry of the non-vendor country; only the value of parts, subassemblies, assemblies, equipment and services supplied by either the Government of the United States or the Government of Luxembourg or their respective industries will be credited.

4.4 The following transactions will be credited in the manner and amounts agreed by both Governments:

—License fees, royalties, and any other income resulting from transfers of technology, and production, testing and quality control equipment between both countries.

—Orders placed by defense agencies in one country with a licensed company in the other country, or from Government-to-Government transactions.

—Contributions by one country in research, development and demonstration programs in the other country.

4.5 Transactions will be credited according to the exchange rate of the respective currencies on the effective date of the transaction.

4.6 Each Government will prepare an annual counting report. These reports will summarize the data counted pursuant to each of the categories above. Supporting data for each category included in the summary will indicate the item supplies, the parties to the transaction, transaction date, and credited value. Both Governments will exchange the summary reports and supporting data sufficiently in advance of the annual meeting to permit review and comment or agreement by the other at least two (2) weeks prior to the meeting. Any disagreement concerning the reports will be settled by the Committee established pursuant to Article 2.1 of the Agreement.

Articles 5—Administration

5.1 Each Government will designate points of contact at their respective Ministry/Department of Defense levels, as well as within other relevant departments and agencies, for the purpose of carrying out those actions necessary to implement the Agreement.

5.2 The Committee for Defense Industrial Cooperation will be responsible for the general administration of the Agreement.

5.3 Quality assurance procedures outlined in STANAGS 4107 and 4108 will apply, unless other provisions are mutually agreed to on any specific contract. Reimbursement for services provided shall be afforded in accordance with the national laws and regulations of each country.

T-211 FRANCE MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of the French Republic and the Government of the United States of America Concerning the Principles Governing Reciprocal Purchases of Defense Equipment

The Government of the United States of America and the Government of the French Republic hereinafter referred to as the Governments:

Noting that a previous agreement dated December 17, 1963 governs their cooperation in the field of research and development,

Noting that no agreement covers harmonization of mutual procurements, although specific compensation agreements bound them in the past,

Wishing to improve the present situation and to strengthen their military capability by a better organization of procurement of equipment meeting their defense needs, while taking into consideration cooperative activities undertaken between European nations within the I.E.P.G. and relationships between Europe and the United States in the field of armaments.

In order to achieve the above aims, the Governments have agreed on the following guidelines to ensure a balanced cooperation in defense equipment research, development, production, and purchasing and associated offset arrangements.

Article I—Principles Governing Reciprocal Defense Purchasing

1. Both Governments agree to achieve and maintain an equilibrium in their exchanges in terms of payments and technological levels to the maximum practicable extent consistent with their national policies.

2. The Governments will jointly determine the defense equipment to which the present MOU is applicable and the desirable level of the equilibrium.

3. Each Government will keep a record of defense equipment procurement from the other country either directly or through its defense industry.

4. Each Government will submit, as practicable, a periodic forecast of defense equipment that it may be able to undertake to procure from the other country or for which the other country may be able to compete. Each Government may propose to the other any particular item of equipment that could meet the requirement of the other Government.

5. Both Governments will provide appropriate policy to guidance and administrative procedures within their respective defense procurement organizations to achieve and maintain the agreed upon equilibrium.

6. For the implementation of this MOU:

a. Offers will be evaluated without applying price differentials resulting from Buy National Laws (in the United States, the Buy American Act).

b. The Secretary of Defense or Minister of Defense shall, consistent with the law and policies of each country, attempt to obtain exemptions from all applicable customs duties or other restrictions which are designed to limit participation by industries of the other country.

c. It will be neccessary to take into consideration all qualified sources in each other's country in accordance with the policies and criteria of the purchasing office, it being understood that offers will satisfy requirements for performance, quality, delivery and cost.

7. To facilitate production programs set up in implementation of this MOU, the Governments understand that subject to their established policies, procedures, regulations and subject to privately owned proprietary rights, each Government will, so far as it is able, without incurring obligations to others, arrange for release to the other and to its agents, or if necessary, to its defense industries, of information and technology necessary for the purpose of such facilitation, taking into account security regulations.

8. Arrangements and procedures will be established concerning follow-on logistic

support for defense material transferred under this MOU. Both governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

9. The Governments, through their appropriate representatives, will consult concerning any problem which may inhibit the efficient operation of this arrangement. Such consultations will be conducted on the basis of Article II of this MOU.

Article II—Entry Into Force

1. Representatives of the two Governments will be appointed to determine in detail the implementation procedures of the MOU. Terms of reference will be proposed for an American-French Committee in charge of reciprocal purchases (including rules governing its work).

2. The Under Secretary of Defense for Research and Engineering in coordination with the Assistant Secretary of Defense (ISA), Assistant Secretary of Defense (MRA&L), the Director, Defense Security Assistance Agency and other appropriate Department of Defense Offices, will be responsible in the U.S. Government for the development of implementing procedures under this MOU and for the management of this MOU on a continuing basis.

3. The Director des Affaires Internationales, under the policy guidance of the Delegue General pour l'Armement, will be the responsible authority for the Government of the French Republic for any matter relating to the implementation procedures of this agreement.

Article III—Industry Participation

1. Each Government will be responsible for bringing to the attention of the defense industries within its country, the basic understanding of this MOU, together with appropriate guidance on its implementation. Both Governments will take all necessary steps so that the defense industries comply with the regulations pertaining to security and classified information safeguarding.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange that their respective procurement and requirements offices will be made familiar with the principles and objectives of this MOU. Notwithstanding the governmental procedures to facilitate implementation, it will be the basic responsibility of industry in each country to isolate, identify, and advise its Government of capabilities and to carry out the supporting actions to bring industrial participation to consummation.

Article IV—Duration

1. This agreement will remain in effect for a ten-year period following its signature unless otherwise agreed by both Gove ments.

2. If, however, either Government cons ers it necessary to discontinue its partici tion under this MOU before the end of t ten-year period, any withdrawal intenti must be notified to the other Governme six months in advance of its effective da and would be a matter of immediate cons tation with the other Government to enab the Governments fully to evaluate the co sequences of such termination and in th spirit of cooperation take such actions necessary to alleviate problems that ma result from the termination. In this conne tion, although the MOU may be terminate by the parties, any contract entered in consistent with the terms of this agreeme shall continue in effect, unless the contra is terminated in accordance with its ow terms.

Article V—Annexes

Annexes negotiated by the responsib services and approved by the appropria Government authorities will be part of th agreement.

Article VI—Implementation

The present agreement, in both Engli and French, will come into effect at th date of signature by both Governments. will not be disclosed to a third count unless otherwise mutually agreed.

Done in Paris, le 22 mai 1978.

HAROLD BROWN,

For the Government of the United State

YVONNE BOURGES,

For the Government of France.

ANNEX I—IMPLEMENTING PROCEDURES

Implementing procedures to the Mem randum of Understanding between the Go ernment of the United States of Americ and the Government of the French Repu lic concerning the principles of cooperatio in the field of reciprocal purchases of D fense Equipment.

I. Introduction

On May 22, 1978, the Governments of th United States of America represented b the Department of Defense (DoD) and th French Republic represented by the Mini try of Defense (MOD) signed a Memora dum of Understanding (MOU) concerni "The Principles Governing Reciprocal Pu chases of Defense Equipment." The purpo of this Annex is to set forth the agreed im plementing procedures for carrying out th MOU and to establish a Franco-Americ Committee for Defense Equipme (FACDE).

II. Major Principles

A. Both the DoD and MOD will consider for their defense requirements defense items *and services* developed and produced in the other country. It will be the responsibility of governments and/or industry representatives in each country to obtain information concerning the other country's requirements and prospective purchases and to respond to requests for proposals or offers in accordance with each other's prescribed procurement procedures and regulations. The responsible governmental purchasing agencies in each country will assist sources in the other country to obtain information concerning prospective purchases, necessary qualifications, and appropriate documentation. The responsible governmental purchasing agencies in each country will seek to inform themselves of the defense items and services which might be available from the other to meet specific requirements.

B. Offers will be evaluated without applying price differentials resulting from national laws. Consistent with the law and policies of each country, the Parties will attempt to obtain exemptions from all applicable duties or other restrictions which are designed to limit participation by industries of the other country.

C. Offers will satisfy requirements for cost, schedule, performance, quality, and continued logistics support.

D. In implementing the MOU, the DoD and the MOD will review and, where considered necessary, revise policies, procedures, and regulations to insure that they are consistent with the principles and objectives of this MOU.

E. With respect to Article I, paragraphs 2 and 4 of the MOU cited in paragraph I above, both countries agree that in general the principles of this MOU *will apply to defense purchases of both Governments on the broadest possible basis.* Some items *and services* will be excluded from consideration under this MOU in order to protect the defense mobilization base; because of legally imposed restrictions; or for other reasons to be discussed by the parties from time to time in meetings of the Franco-American Committee.

III. Action

Both countries will, on a reciprocal basis, and to the extent appropriate:

A. Ensure that activities responsible for requirements, research and development, and procurement are familiarized with the principles and objectives of this MOU.

B. Ensure appropriate dissemination of the basic principles of this MOU to the respective defense industries.

C. Assist industries in their respective countries to identify and advise the other government of their capabilities.

D. Review items *and services* as candidates to meet defense requirements. Identify requirements and prospective purchases soon enough to ensure adequate time for their respective industries to participate in the procurement process.

E. Ensure that those items *and services* excluded from consideration under this MOU for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense procurement spending. It is intended that such defense items and services, as well as those items and services that must be excluded from consideration under this MOU because of legally imposed restrictions on procurement from non-national sources, be identified as soon as possible by the MOD and the DoD, and that such defense items and services be kept under review by the Committee established pursuant to paragraph IV below.

F. Make best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries.

IV. Franco-American Committee for Defense Equipment (FACDE)

The FACDE will consider development, production, procurement, and logistics needs of each country and the likely areas of cooperation and will recommend appropriate measures to facilitate a maintenance of an equilibrium in their exchanges in terms of value and technological levels to the maximum practicable extent consistent with their national policies.

V. Counting Procedures

The purchases to be counted within the framework of the MOU will be identified jointly by DoD and MOD. In principle all defense items and services purchased by DoD and MOD from the other country will be counted within the framework of the MOU as long as such purchases meet the following criteria.

A. Direct purchases by the MOD or DoD, including their respective agencies, from one another.

B. Direct purchases by either the MOD or DoD from the industry of the other country.

D. Purchases by a third country government from the governments of the United States or of France or from industries of the two countries as a direct result of effort of the other country.

E. Purchases resulting from common funded defense programs to which the

United States and/or France are contributors, to be credited in proportion to each country's financial contribution to such programs and to work carried out in each country. The extent to which such purchases will be counted within the framework of the MOU will be agreed between MOD and DoD in each case.

F. License fees, royalties and other associated income resulting from orders placed by industry and/or DoD or MOD with a licensed company in the other country.

Types of contracts to be included for purposes of counting will consist of at least the following:

1. Research and development
2. Pre-production
3. Production
4. "Off-the-shelf" procurement
5. License agreements and technical assistance
6. Installation (other than construction)
7. Repair, overhaul and modification
8. Services

Types of contracts to be excluded for purposes of counting will be decided by the FACDE.

Exceptions to the above guidelines will be permitted only as agreed between the Governments as represented by the FACDE.

The following procedures will be used in considering current balances and long term trends of purchases between the two countries:

A. Annual Balances will be calculated based on a January 31 to December 31 time period. Longer term calculations can be made for intervals beginning on the effective date of the agreement to closing dates to be determined.

B. Subject to review and possible refinement by the Committee as indicated in Article VI below, the balance of purchases will be calculated using a single US-French monetary exchange rate for a given period to be applied to purchases by both sides. The details for determining the exchange rate will be formulated by the Committee.

VI. Administration

A. The FACDE will meet as frequently as necessary, but not less than once a year, to implement the agreement. It is intended that the meetings will alternate between Washington and Paris. The FACDE will agree to the basis of, and keep under review, the current balance and long term trends of purchases between the two countries.

B. Each country will designate points of contact at the Ministry of Defense level and in each purchasing service and agency for the transaction of routine business. The points of contact shall be:

1. For the French Ministry of Defense, the Sous-Director des Affaires Internationales pour la Cooperation.

2. For the US Department of Defense,
Deputy Under Secretary of Defense (A
sition Policy).

C. Quality assurance procedures outl
in Stanag 4107 and 4108 will apply u
other provisions are mutually agreed to
any specific contract. Payment for serv
provided shall be made in accordance
the national laws and regulations of e
country.

D. Audit of contracts will be accomplis
in accordance with Annex 2 to the MOU.

VII. Security

A. To the extent that any items, pl
specifications or information furnished
the course of the implementation of t
MOU are classified by either Governme
for security purposes, the other Gove
ment shall maintain a similar classificati
and employ all measures necessary to p
serve such security equivalent to th
measures employed by the classifying G
ernment throughout the period duri
which the classifying Government m
maintain such classification.

B. The provisions of the General Securi
of Information Agreement dated 7 Septe
ber 1977 between the United States Gove
ment and the Government of France app
to activities under this MOU.

C. Information that has been provided
the MOD to the DoD in confidence, or pr
duced by the DoD pursuant to a writte
joint arrangement with the MOD requiri
confidentiality, shall either retain its ori
nal classification designation or be assign
a United States classification designati
that shall ensure a degree of protecti
against disclosure equivalent to that r
quired by the MOD. To assist in providi
the desired protection, the MOD will ma
such information furnished to the DoD wi
a legend indicating that the information
of French Government origin, that the i
formation relates to this MOU, and that th
information is furnished in confidence.

VIII. Procedure for Calculation of Exchanges Balance

A. Accounting Periods

The accounting period will be from Janu-
ary 1 to December 31 of each year.

B. Exchange Rate

A single exchange rate will be used to e
press the payment value for both parties
This rate will be calculated by averagin
over the period the monthly means of ave
age daily rates published in New York and
Paris by the competent authorities. The e
change rate for the previous period will b
submitted to the FACDE prior to the first
meeting of each period.

C. Calculation of the Cumulated Balance of Exchanges

To calculate the cumulated exchange balance starting from the effective date of signature of the MOU, the following will be done:

1. Add to the cumulative balance of the preceding period the balance of the current period.

2. Valuate each country's balance in terms of its own currency.

An example of the cumulated balance calculation is shown in the appendix.

D. Balance Approval

To take into account the data obtained after the FACDE meeting it is agreed that the balance may be revised during the next FACDE meeting, at which date it will become definitive.

IX. Implementation

The present annex, English and French versions of which are equally authentic, will come into effect as of the date on which both parties have signed.

T-212 Spain Memorandum of Understanding

Complementary Agreement Four—Defense industrial Cooperation

Preamble

The Government of the United States of America and the Government of Spain, hereinafter referred to as the "Governments":

Intending to increase their respective defense capabilities through more efficient cooperation in the areas of research and development, production, procurement and logistic support of defense equipment, in order to:

–Make the most cost-effective and rational use of the resources allocated to defense;

–Promote the widest possible use of standard or interoperable equipment; and

–Develop and maintain an advanced technology capability for the North Atlantic Alliance, and particularly with respect to the Parties to this Agreement;

Noting the substantial purchases of defense items by Spain from the United States and the purchase of defense items from Spain by the United States, and recognizing the desirability of working toward an equitable balance in defense trade between the two countries;

Recognizing that suppliers in each country should be afforded the opportunity to compete, on a reciprocal basis, for the procurement of defense products, equipment, materials and services, hereinafter referred to as "defense items and services";

Seeking to improve the present situation and to strengthen their military capability and economic position through the mutual acquisition of standard or interoperable equipment and to achieve the above aims;

Enter into this Agreement, which sets out the guiding principles governing mutual cooperation in research and development, production, procurement and logistic support of conventional defense equipment.

Article 1—Principles Governing Mutual Defense Cooperation

1.1.1 Both Governments will take immediate steps to achieve and maintain an equitable balance in their exchanges, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies. An equitable balance, in principle, shall be achieved when the two Governments have implemented all practicable means at their disposal to maximize defense research and development (R&D) cooperation and reciprocal procurement to the extent compatible with the nature of each country's technological and industrial base.

1.1.2 Both Governments will make their best efforts to facilitate defense R&D cooperation, coproduction of defense equipment and provision of opportunities to compete for procurement of defense items and services to include systems, subsystems, components, and spare parts at all technological levels.

1.1.3 In order to assess the mutual flow of defense procurement, the Governments have jointly determined counting procedures which are set down in Annex 1 to this Agreement, and which will apply to all defense items and services purchased by them directly or through their respective industries under this Agreement. Defense items are services and those items and services which may be procured utilizing appropriated funds of the United States Department of Defense or budgeted funds of the Spanish Ministry of Defense.

1.2 The Governments will, consistent with their relevant laws and regulations, give full and prompt consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Atlantic Alliance.

1.3 In the interests of standardization and the effective utilization of scarce resources, each Government shall, to the extent possible, adopt qualified defense items that have been developed or produced in the other country to meet the requirements of the Government of such country.

1.4 Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

1.5 Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to achieve and maintain the equitable balance mentioned in Article 1.1.1 of this Agreement, as well as the other aims of this Agreement.

1.6 Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each country for use by the other country's defense establishment.

1.7 Both Governments agree that consistent with and to the extent permitted by national laws and regulations, mutually agreed implementing procedures will incorporate the following:

1.7.1 Barriers to defense industrial cooperation including those to procurement of defense items developed or produced in the other country shall be removed. Specifically, offers or proposals of defense items produced in or defense services provided by each country will be evaluated without applying price differentials under "buy national" laws and regulations, and without applying the cost of applicable import duties;

1.7.2 Each country will give full consideration to all qualified sources in the other country. In addition, each country will give full consideration to all applications for qualification by sources in the other country;

1.7.3 Offers or proposals will be required to satisfy requirements of the purchasing Government concerning performance, quality, delivery and costs;

1.7.4 Provisions for duty-free certificates and related documentation;

1.7.5 Arrangements concerning quality control and audits of incurred costs and price proposals.

1.8 Both Governments will review defense items and services submitted as candidates for their respective requirements. They will indicate requirements and proposed purchases in a timely fashion, in accordance with national regulations, to ensure adequate time for their respective industries to qualify as eligible suppliers and to submit a bid or proposal.

1.9 Technical Data Packages (TDPs) shall not be transferred between the two countries without the written permission of those owning or controlling any associated proprietary rights. Each Government will ensure that any TDPs which it may receive from the other are not used for any purpose other than for the purpose of offering or bidding on or performing a prospective defense contract, without the prior written agreement of those owning or controlling proprietary rights, and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain.

1.10.1 Transfers to third parties of defense articles or technical data made available under this Agreement, and of articles produced with such data, will be subject to the prior written agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments or in multilateral agreements to which both Governments are parties.

1.10.2 Each Government will base its decisions regarding requests by the other for agreement to third party transfers on its laws, regulations and policies. Each Government will use the same criteria for proposed transfers by the other as it uses for itself, and will not reject, solely in the pursuit of its own national commercial advantage, a request from the other for a third country transfer of such defense articles or technical data.

1.11 Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights. Consistent with its laws and regulations, each Government will make available to the other all information necessary to implement cooperative arrangements under this Agreement. To the extent feasible, both Governments will seek an understanding with their respective industries that, in the interest of standardization and defense industrial cooperation, proprietary rights in defense-relevant information and data can be transferred by appropriate arrangements between the industries of the two countries.

1.12 Arrangements and procedures will, at the request of the purchasing Government, be established concerning follow-on logistic support for items of defense equipment purchased pursuant to this Agreement. Each Government will make its defense logistic systems and resources available to the other for this purpose as required and mutually agreed.

1.13 To the extent consistent with their respective laws and regulations and on the basis of reciprocity, each Government will waive its claims for reimbursement from the other with respect to nonrecurring research, development, and production costs.

Article 2—Implementing Procedures

2.1 Both Governments agree to create a Joint United States-Spanish Committee for Defense Industrial Cooperation to which they will appoint representatives who will develop terms of reference for this Committee and procedures for implementing this

greement. Such implementing procedures
re included in Annex 1 to this Agreement.
2.2 The Under Secretary of Defense for
esearch and Engineering will be the re-
ponsible authority in the United States De-
artment of Defense for the development of
nplementing procedures under this Agree-
ent.
2.3 The Director General de Armamento
Material of the Ministry of Defense will
the responsible authority of the Govern-
ent of Spain for the development of im-
lementing procedures under this Agree-
ent.

Article 3—Industry Participation

3.1 Implementation of this Agreement
ill involve maximum industrial participa-
on. Notwithstanding the governmental
ocedures to facilitate the implementation
this Agreement, it will be the basic re-
onsibility of the industries in each coun-
y to identify and advise their Government
their respective capabilities for coopera-
on and to carry out the supporting actions
bring industrial participation to consum-
ation.
3.2 Each Government will be responsible
r calling to the attention of its relevant in-
stries the basic understanding of this
greement and the appropriate implement-
g guidance. Both Governments will take
necessary steps to ensure that their in-
stries comply with the regulations per-
ining to security and to safeguarding clas-
ied information.
3.3 The Governments will arrange that
eir respective defense acquisition organi-
tions are made familiar with the princi-
es and objectives of this Agreement, and
ll assist sources in the other country to
tain information concerning proposed
rchases, necessary qualifications and ap-
opriate documentation.
3.4 To encourage the exchange of infor-
ation in accordance with the purpose of
is Agreement, each Government will, pur-
ant to its national laws and regulations,
ke action to facilitate participation by
operly cleared officials and representa-
es of the other country in informational
nposia, program briefings and prebid con-
ences, as well as access to publications
d visits to installations.

Article 4—Security

.1 Security arrangements under this
eement will be subject to any subse-
nt security agreements entered into by
Governments. Until such security ar-
gements are agreed, the following provi-
s will apply:
1.1 To the extent that any items, plans,
ifications, or information furnished in
nection with the implementation of this
eement are classified by the furnishing
Government for security purposes, the other Government shall maintain a similar classification and employ security measures equivalent to those employed by the classifying Government.

4.1.2 Information provided by either Government to the other on condition that it remain confidential shall either remain in its original classification or be assigned a classification that ensures protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of the information, that the information relates to this Agreement, and that the information is furnished in confidence.

4.1.3 Each Government will permit security experts of the other Government to make periodic visits to its territory, when it is mutually convenient, to discuss with its security authorities its procedures and facilities for the protection of classified military information furnished to it by the other Government. Each Government will assist such experts in determining whether such information provided to it by the other Government is being adequately protected.

4.1.4 The recipient Government will investigate all cases in which it is known or there are grounds for suspecting that classified military information from the originating Government has been lost or disclosed to unauthorized persons. The recipient Government shall also promptly and fully inform the originating Government of the details of any such occurrences, and of the final results of the investigation and corrective action taken to preclude recurrences.

Article 5—Defense Production Projects

5.1 The Government of the United States shall use its best efforts to furnish the Government of Spain such assistance as may be mutually agreed upon in light of the latter's priorities for the development, production, maintenance, repair and overhaul of Spanish defense equipment and materials, including arms and ammunition.

5.2 As a contribution to increasing the productive capacity of the Spanish military industry, defense production projects shall be designated by mutual agreement. A list of those projects under consideration shall be developed as soon as feasible; this list shall become part of this Agreement. Each Government shall from time to time notify the other of defense industrial cooperation projects it considers particularly suitable for addition to the list. These projects may be carried out by Spain alone, or as cooperative joint production projects by Spain and the United States, or as multilateral projects with the participation of one or more NATO countries as mutually agreed.

5.3 The Government of the United States will provide to the Government of Spain, or will assist the Government of Spain to obtain: wherever possible at no cost, or on terms no less favorable then those extended by the Government of the United States to other NATO countries, the industrial property rights requested by the Government of Spain to develop its own defense production or to promote standardization and interoperability of equipment manufactured in Spain with that of the United States, and with other members of the NATO Alliance.

5.4 In accordance with the objectives set forth in Article 1.1.1 of this Agreement and the other goals of this Agreement, the Governments may enter into specific Government-to-Government or Government-to-industry agreements for cooperation in developing, producing, coproducing or procuring defense items.

Article 6—Administration

6.1 The United States-Spanish Joint Committee for Defense Industrial Cooperation will be co-chaired by the authorities referred to in Article 2 of this Agreement, or their designated representatives. The Committee will meet as agreed at the request of either Government, but a mimimum of once a year to review progress in implementing this Agreement. It will discuss the research, development, production, procurement and logistics support needs of each country and the likely areas of cooperation; develop the list of defense industrial cooperation projects mentioned in Article 5.2 of this Agreement; agree to the basis of and keep under review the financial statement referred to in Article 6.3 of this Agreement; and consider any other matters relevant to this Agreement.

6.2 Each Government will designate points of contact in the Ministry/Department of Defense level, in each purchasing Service/Agency under the Ministry/Department of Defense, and with other Government Departments and Agencies as appropriate.

6.3 An annual United States-Spanish statement of the current balance and long-term trends of R&D cooperation, production, and purchases between the two countries will be prepared on a basis to be mutually agreed.

Article 7—Effect of Termination

7.1 Notwithstanding the expiration of termination of this Agreement, any contract entered into consistent with the terms of this Agreement will continue in effect, unless the contract is terminated in accordance with its own terms.

7.2 Articles 1.9, 1.10 and Article 4 of this Agreement will continue in full force and effect after, and notwithstanding the expiration or termination of this Agreement.

Article 8—Entry into Force

8.1 This Agreement, including its Annexes, will enter into force and remain in force in accordance with the provisions of Article Six of the Agreement on Friendship, Defense and Cooperation.

8.2 Supplementary protocols which may be negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this Agreement and made an integral part thereof.

Done in Madrid, this 2nd day of July, 1982, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America.

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For the Kingdom of Spain.

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COMPLEMENTARY AGREEMENT FOUR—DEFENSE INDUSTRIAL COOPERATION

Annex I—Principles Governing Implementation

Article 1—Introduction

This Annex sets forth the procedures agreed upon by the Governments of the United States and Spain to implement Complementary Agreement Four, hereinafter referred to as "The Agreement," to the Agreement on Friendship, Defense and Cooperation between the two countries.

Article 2—Major Principles

2.1 Each Government will consider for its defense requirements qualified defense items and services developed or produced in the other country.

2.2 The responsible Government authorities in each country will assist sources in the other country to obtain appropriate information concerning:

2.2.1 Plans and programs for research, development, production and acquisition of defense items and services.

2.2.2 Requirements for the qualification of sources.

2.2.3 Specifications and quality assurance standards.

Both Governments will respond promptly to requests for information that comply with their respective regulations and procedures. However, notwithstanding the governmental procedures established to facilitate the Agreement, it will be the responsibility of Government and/or industry representatives in each country to acquire information concerning the other country's research, development and procurement plans and to respond to solicitations in accordance with the prescribed acquisition regulations and procedures of the purchasing country.

Article 3—Actions

3.1 Both Governments will review and, where considered necessary, revise policies, procedures and regulations to ensure that the principles and objectives of the Agreement, which are intended to be compatible with the broad aims of NATO standardization and interoperability, are taken into account. Recognizing that factors such as delivery date requirements for supplies, the interests of security, and the timely conduct of the contracting process must be considered, both Governments agree that the following measures will be taken to ensure free and full competition for the award of contracts:

3.1.1 Ensure that, as a minimum, the following entities are familiar with the principles, objectives and terms of the Agreement:

–Their respective defense planning, programming, and contracting offices.

–Their respective offices responsible for defense imports and exports.

–Their respective agencies and industries esponsible for the research, development, nd production of defense items and/or ervices.

3.1.2 Ensure that, consistent with national laws and regulations, offers of defense tems developed and/or produced in the ther country will be evaluated without applying to such offers either price differentials under "buy-national" laws and regulations or the cost of import duties.

3.1.3 Consistent with national laws and regulations, provisions will be made for duty-free entry certificates and related documentation.

3.1.4 Assist industries in their respective ountries to advise the other Government of heir capabilities, and assist such industries n carrying out the supporting actions to aximize industrial participation in the imlementation of the Agreement.

3.1.5 Consider defense items and services ffered by the Government or industry of e other country as candidates for their reective requirements. Identify specific reirements and proposed purchases to the her country in a timely fashion to ensure at agencies and industries of such country e afforded adequate time to be able to rticipate in the research, development, oduction, and procurement processes.

3.1.6 Use their best efforts to assist in netiating licenses, royalties, and technical formation exchanges among their respece industries, and research and developnt institutes.

3.1.7 Permit the sale of defense equipnt produced under license, coproduction reements and/or joint development jects to allied countries and to appropriate third countries, subject to the policy outlined in Article 1.10 of the Agreement. Each agreement for a joint development or coproduction will address transfers of items or technology to allied or third countries.

3.1.8 Ensure that those items and services excluded from consideration under the Agreement for reasons of protecting national requirements, such as the maintenance of a defense mobilization base, are limited to a small percentage of total annual defense acquisition spending. Such items and services, together with those that must be excluded from consideration under the Agreement because of legally imposed restrictions on acquisition from non-national sources, will be identified as soon as possible by the Department of Defense as well as by the Ministry of Defense. Lists of these items and services will be prepared and kept under review at this level.

3.1.9 Pursuant to its national laws and regulations, facilitate arrangements for visits by properly cleared Government officials and industry representatives of the other country to explore and actively promote cooperation possibilities for research, development, production, procurement and logistic support of defense equipment.

3.2 Both Governments will ensure that their respective actions under the Agreement in working toward an equitable balance in defense trade, take into consideration the level of technology involved as well as the contractual value of the items being purchased.

Article 4—Counting Procedures

4.1 The purchases and other transactions to be counted against the goals of the Agreement will be identified jointly by the Department of Defense and Ministry of Defense. In principle, all defense items and services purchased by the Department of Defense or Ministry of Defense from the other country will be counted as long as such purchases meet the following criteria:

4.1.1 Direct purchases by the Department of Defense or Ministry of Defense, including their respective agencies, one from the other.

4.1.2 Purchases by either the Department of Defense of Ministry of Defense from the industry of the other country. When such purchases involve offset agreements between the Government of either country and the industry of the other country, the amount of such offset shall be applied in calculating the balance.

4.1.3 Purchases by industry from the Government or industry of the other country in the framework of Government defense contracts.

4.1.4 Purchases by a third country government from the Government of the United States or the Government of Spain or the industry of either country when either of the following circumstances occur:

—The sale requires the prior agreement of the non-vendor Government.

—The sale is a direct result of the promotional efforts by the Government or industry of the non-vendor country, which fact has been previously acknowledged and agreed by the vendor party.

4.1.5 Acquisitions by either country of defense items or services resulting from projects jointly funded by both countries.

4.1.6 License fees, royalties and other associated income resulting from orders placed by the Department of Defense or the Ministry of Defense and/or industry in one country with a licensed company in the other country; or in Department of Defense-Ministry of Defense transactions.

4.1.7 Transfers of technology, and production, testing and quality control equipment required to achieve the goals of the Agreement.

4.1.8 Contributions by one country in research, development and demonstration programs in the other country that have been agreed by both Governments.

4.1.9 Purchases of non-defense items and services by the government or industry of either country from the Government or industry of the other, provided that both Governments agree that any particular purchase is to be counted against the goals of the Agreement.

4.2 The following transactions will not be counted;

4.2.1 Maintenance and logistic support activities in either country under contracts in effect before the effective date of the Agreement.

4.2.2 Any transaction being carried out under contracts and agreements in effect before the effective date of the Agreement.

4.2.3 Operational expenses of either Government to achieve the goals of the Agreement.

4.3 Transactions listed in Article 4.1 of this Annex, and any others that both Governments agree, will be credited in the following manner:

4.3.1 At the value of the contract on its effective date.

4.3.2 Purchases by third countries of defense items or services from the Government of the United States or the Government of Spain or the industry of either country as described in Article 4.1.4 of this Annex, will be credited as a sale by the nonvendor country, as follows:

—When authorization by the non-vendor Government is required; only the value of the item(s) directly related to the authorization will be credited.

—When the sale is the direct result of promotional efforts by the Government or industry of the non-vendor country; only the value of parts, subassemblies, assemblies, equipment and services supplied by ei the Government of the United States or Government of Spain or their respectiv dustries will be credited.

4.4 The following transactions will credited in the manner and amounts ag by both Governments:

—License fees, royalties, and any ot income resulting from transfers of techn gy, and production, testing and quality c trol equipment between both countries.

—Orders placed by the Department of fense or the Ministry of Defense and/or dustry in one country with a licensed c pany in the other country, or from Dep ment of Defense-Ministry of Defense tr actions.

—Contributions by one country in search, development and demonstrat programs in the other country.

4.5 Transactions will be credited acc ing to the exchange rate of the respec currencies on the effective date of the tr action.

4.6 Each Government will prepare annual counting report. These reports summarize the data counted pursuant each of the categories above. Support data for each category included in the s mary will indicate the item supplied, parties to the transaction, transaction d and credited value. Both Governments exchange the summary reports and supp ing data sufficiently in advance of annual meeting to permit review and c ment or agreement by the other at least (2) weeks prior to the meeting. Any agreement concerning the reports will settled by the Joint Committee establis pursuant to Article 2.1 of the Agreement.

Article 5—Administration

5.1 Each Government will desig points of contact at their respective Mi try/Department of Defense levels, as wel within other relevant departments agencies, for the purpose of carrying those actions necessary to implement Agreement.

5.2 The Joint Committee for Defense dustrial Cooperation will be responsible the general administration of the Ag ment. Its terms of reference are contai in Annex 2 to the Agreement.

5.3 Quality assurance procedures lined in STANAGS 4107 and 4108 will ap unless other provisions are mutually agr to on any specific contract. Reimbursem for services provided shall be afforded in cordance with the national laws and reg tions of each country.

T-213 TURKEY MEMORANDUM OF UNDERSTANDING

Supplementary Agreement Number 2 Between the Governments of the United States of America and of the Republic of Turkey on Defense Industrial Cooperation

The Government of the United States of America and of the Republic of Turkey,

Desiring to strengthen their respective defense capabilities as well as those of the North Atlantic Alliance as a whole through efficient cooperation in the fields of research, development, production, procurement and logistic support,

Recognizing that increased defense production capability is an integral part of a strong defense effort,

Having regard to the fact that an essential security relationship is supported by harmonious economic relations,

Bearing in mind the increasing impact of the economy and the application of new technologies on defense matters,

Taking into consideration the efforts of the NATO countries to develop and maintain an advanced industrial and technological capability and to achieve a more rational use of available resources, the standardization and interoperability of equipment and services, increased exchange of information, and better coordinated procurement policies, have agreed as follows:

Article I

1. The Government of the United States of America and the Government of the Republic of Turkey will cooperate in order to increase their defense equipment production and maintenance capabilities and to enable their armed forces to acquire more economically and efficiently modern armaments and equipment needed for self and common defense.

2. To this end, both Governments will seek to facilitate the mutual flow of defense procurement and technological know-how in the field of defense. They will also seek to provide opportunities to compete for procurement of defense equipment and services and to promote and faciliate the coproduction of defense equipment and cooperation in defense research and development and to expand programs of data exchange in defense technologies.

3. This Supplementary Agreement covers areas of possible bilateral cooperation in research, development, production, procurement and logistic support of conventional defense equipment. Measures taken under this Supplementary Agreement shall complement or be consistent with the work of the Conference of National Armament Directors (CNAD), the Independent European Program Group (IEPG), and the Senior NATO Logisticians Conference (SNLC). They therefore agree that, in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this Supplementary Agreement, the Parties hereto will consult with a view of amending this Agreement.

4. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative research and development, and to all requests for production and procurement intended to enhance the standardization and/or interoperability of equipment and services within the Alliance.

5. Each Government shall normally use competitive contracting procedures in acquiring items of defense equipment developed or produced in the other's country.

6. The two Governments shall agree upon detailed procedures to implement this Agreement. These procedures will incorporate the following:

A. Offers or proposals will be evaluated without applying price differentials under "Buy National" laws and regulations and without applying the cost of import duties;

B. Full consideration will be given to all qualified industrial and governmental resources in each country;

C. Offers or proposals will be required to satisfy the applicable requirements of the purchasing Government for performance quality, delivery and costs.

7. Any item to be excluded from consideration of reciprocal defense procurement under this Supplementary Agreement for reasons of protecting national defense requirements should be identified as soon as possible in lists drawn up by the Turkish Ministry of National Defense and the Office of the U.S. Secretary of Defense for their respective countries. These lists will be kept under review and may be modified only at this level.

8. Each Government will ensure that Technical Data Packages (TDP's) made available under this Supplementary Agreement are not used for any purpose other than for bidding on and performing a prospective defense contract, without the prior agreement of those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information contained in TDP's. In no event shall the TDP's be transferred to a third country or any other transferee without the prior written consent of the originating Government.

9. Third party transfer of defense articles or technical data made available under this Supplementary Agreement and of defense articles produced with such data will be subject to the agreement of the Government

that made available the defense articles or technical data, except as otherwise agreed.

10. At the request of the purchasing Government, arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment purchased pursuant to this Supplementary Agreement. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II

1. The Government of the United States will furnish the Government of the Republic of Turkey such assistance as may be mutually agreed upon in light of the latter's priorities for the production, maintenance, repair and overhaul of defense equipment and materials, including arms and ammunition.

2. Mutually agreed defense production projects will be designed to constitute an increment to the production capabilities of Turkish industry. Such projects may be carried out solely by Turkey, as joint United States-Turkish projects of coordinated production, or as multilateral projects with the participation of other NATO and friendly countries.

Article III

Each Government will permit the importation and exportation, free from customs duties and taxes or similar charges, of equipment and materials sent to its country for maintenance, repair or overhaul pursuant to this Agreement.

Article IV

1. The Government of the United States will provide to the Government of the Republic of Turkey, or assist the Government of the Republic of Turkey in obtaining wherever possible at no cost, or, on terms no less favorable than those extended by the Government of the United States to any other NATO country, industrial property rights for the purpose of promoting the defense equipment production and enhancing the rationalization, standardization and interoperability of equipment and services of the NATO Alliance.

2. The Government of the United States will waive its reimbursement claims from the Government of the Republic of Turkey, to the extent possible and on a reciprocal basis, with respect to research and development costs and non-recurring production costs.

Article V

1. Each Government will call this Supplementary Agreement to the attention of relevant industries within its territory and will provide appropriate implementing guidance. Both Governments will take all necessary steps to ensure that industries comply with regulations pertaining to security and to the safeguarding of classified information.

2. Implementation of this Supplementary Agreement will involve full industrial participation. Accordingly, the Governments will inform their respective procurement and requirements offices of the principles and objectives of this Supplementary Agreement.

Article VI

1. To the extent that any items, plans, specifications, or information furnished in connection with the implementation of this Supplementary Agreement are classified by the furnishing Government for security purposes, the other Government shall maintain a similar classification and employ security measures equivalent to those employed by the classifying Government.

2. Information provided by either Government to the other on condition that it remain confidential shall either remain in its original classification, or be assigned a classification that ensures protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of the information, that the information relates to this Supplementary Agreement, and that the information is furnished in confidence.

Article VII

This Agreement shall be implemented in accordance with mutually agreed programs. To this end, the two Governments, acting through their competent authorities will enter into implementing agreements. The two Governments will seek ways to implement these programs and projects, identified in an Annex to this Agreement, at the lowest possible cost to Turkey.

Article VIII

1. This Supplementary Agreement shall have an initial term of five years, and shall remain in force from year to year thereafter unless terminated. The Agreement shall be terminated at the end of its initial term or of an annual extension if either Party gives the other Party written notice of its intent to terminate it at least 90 days prior to the end of the term.

2. Should disagreement arise from the interpretation or implementation of this Agreement, the Parties shall consult in order to resolve the matter promptly.

3. Either Party may propose in writing the revision or amendment of this Agreement. In such a case, consultations shall begin im-

mediately. If no result is reached in three months, either Party may terminate the Agreement upon 30 days notice in writing.

Article IX

Should the implementation of the contracts signed within the framework of this Supplementary Agreement not be completed at the time the present Agreement is terminated, provisions of this Agreement shall continue to cover said contracts until they are completed. Should this Agreement be terminated, Article I, Paragraphs 8 and 9, Articles VI will continue in force for those materials and data which were provided during the life of the Agreement.

Article X

Done at Ankara in duplicate, in the English and Turkish languages, each of which shall be equally authentic, on this 29th day of March 1980.

For the Government of the United States of America.

James W. Spain,
Ambassador of the United States of America.

For the Government of the Republic of Turkey.

Hayrettin Erkmen,
Minister of Foreign Affairs.

Annex to Supplementary Agreement Number 2 Between the Governments of the United States of America and the Republic of Turkey on Defense Industrial Cooperation

Projects presently under consideration:

A. *Production of Anti-Armor Ammunition.*

A separate production line is required to manufacture armor piercing ammunition. The objective of this project is to gain the capability of producing hollow-charge and hard-core ammunition for existing weapons in the Turkish Armed Forces and for more modern types of weapons.

B. *Production of Fuses.*

New facilities are required to produce various types of fuses. The objective of this project is to increase existing production capability by obtaining new technology and equipment to produce fuses for artillery ammunition, rocket and missile warheads, and various bombs and mines.

C. *Production of Propellant Powders and Explosives.*

An increase in production capacity of propellant powders is required. The objective of this project is to produce various kinds of propellant powders and high explosives to support artillery ammunition and rocket warhead production programs.

D. *Production of Various Kinds of Rockets.*

The existing manufacturing facilities are required to be supplemented by equipment and production know-how in order to produce various kinds of rockets. The objective of this project is to manufacture and supply rocket-type ammunition and rocket-assisted equipment for the requirements of the Turkish Army.

E. *Improvement of Aircraft Rebuild Capabilities and Improvements of Facilities.*

In order to improve the rebuild capability of existing aircraft in the Turkish Air Force, the development of plans and programs is required. The objective of this project is to be a complete and self-sufficient rebuild capability of engine, body, avionics and other electronic equipment for the existing aircraft, including F-4 Phantoms.

F. *Building a Modern Frigate and Improvement of Overhauling Capability.*

The program of building a modern frigate suitable for Turkish Navy requirements is to be pursued. In parallel with the construction activity the overhauling capability of Golcuk shipyard is to be improved.

G. *Tank Upgrading Program.*

The objective of this project is to convert existing M48 tanks into M48A3 and/or M48AS versions, including Turkish production of various primary components.

Supplementary Agreement Number 3 Between the Governments of the United States of America and of the Republic of Turkey on Installations

Article I

1. Pursuant to Article V of the Agreement for Cooperation on Defense and Economy between the Governments of the United States of America and of the Republic of Turkey, the Government of the Republic of Turkey authorizes the Government of the United States to participate in joint defense measures at the following Turkish Armed Forces Installations:

—Sinop (electromagnetic monitoring).

—Pirinclik (radar warning space monitoring).

—Incirlik (air operations and support).

—Yamanlar (Izmir), Sahintepe (Gemlik), Elmadag (Ankara), Karatas (Adana), Mahmurdag (Samsun), Alemdag (Istanbul), and Kurecik (Malatya) (nodal communications sites).

—Belbasi (seismic data collection).

—Kargaburun (radio navigation).

2. The Government of the Republic of Turkey also authorizes United States administrative and support organizations and activities outside the installations. Such organizations and activities shall be subject to the relevant provisions of this Agreement.

3. Where necessary, requirements specified in this Supplementary Agreement shall

be elaborated in appropriate implementing agreements.

Article II

1. Technical operations and maintenance services at the installations where the primary purpose is intelligence collection, nodal communications or radio navigation shall be carried out jointly by Turkish and United States personnel. The modalities of this cooperation, including the distribution of manpower spaces for assignment by each Party and training requirement for Turkish personnel, shall be determined jointly by appropriate authorities of the two Governments. For the purposes of this cooperation, the Government of the United States shall provide access to appropriate training for Turkish personnel.

2. All intelligence information, including raw data, produced at intelligence collection installations in the Republic of Turkey shall be shared by the two Governments in accordance with arrangements determined jointly by the competent technical authorities of the two Governments.

3. Mutually agreed arrangements shall be established to enhance Turkish Armed Forces' utilization of the capability of the Defense Communications System in Turkey to the extent feasible.

4. U.S. and Turkish authorities shall consult to avoid interference between activities of the installations authorized by this Agreement and the activities of other military and civilian installations and to avoid damage to life and property.

5. Modernization, addition or importation of the equipment related to the technical operations at the installations which would increase mission capabilities shall be subject to advance approval by the Government of the Republic of Turkey.

Article III

1. The Government of the United States of America will assign an officer as Commander of the United States Forces at each installation, who also will function as the single point of contact with the Turkish Installation Commander. The Turkish Installation Commander and the officer so assigned by the Untied States shall: exercise command and control over their respective forces, including equipment and material and the premises exclusively used by them, as well as providing security therefor; maintain close contact and coordination to insure that activities are conducted in a manner consistent with the spirit and provisions of this Agreement; and be responsible to insure that activities and technical operations at the installation shall be carried out in accordance with the provisions of this Agreement.

2. Turkish civilian personnel employed by the United States Forces or contractors of the United States Forces shall be under the control, responsibility and direction of their employer.

3. The Turkish Installation Commander shall be responsible for relation with the local Turkish authorities, order and security of the intallation as a whole, including perimeter security, consistent with Paragraph 1 of this Article and modalities mutually agreed in accordance with Paragraph 1, Article II of this Agreement.

4. Access to installations shall be under the control of the Installation Commander. Members and vehicles of the United States Forces and civilian component, as well as contractors, contractor employees and Turkish civilian employees of the United States Forces, shall have access to the installations on the basis of a standard identification card issued by appropriate Turkish authorities upon request of appropriate United States authorities. Such identification cards shall be valid for all installations covered by this Agreement. Personnel awaiting receipt of a standard identification card and temporary duty personnel shall have access on the basis of official orders and United States identification. Authorized dependents and official visitors shall have access on the basis of official United States or Turkish identification. Detailed implementing arrangements for admittance to the installations will be contained in a directive for procedures regarding admittance to the installations.

5. The United States flag may be flown at the headquarters of the United States Forces at the installation.

6. The installation Commander may issue directives applicable to the installation as a whole consistent with the provisions of this Article.

Article IV

The purpose, mission, location, installation plan, authorized quantities of arms and ammunition, authorized major items of equipment and authorized personnel strengths of the United States Forces and civilian component shall be detailed by mutual agreement. Increases in such authorized quantities and strengths shall be subject to prior approval of the appropriate Turkish authorities. The appropriate authorities of the Government of the United States shall provide to the appropriate authorities of the Government of the Republic of Turkey a quarterly report of assigned personnel strengths including Turkish civilian personnel, as well as organization charts for United States units at each installation. The Parties acknowledge that the number of personnel assigned may at times temporarily exceed authorized levels because of the personnel assignment processes.

Article V

1. In accordance with the provisions of the "Agreement Between the Parties of the North Atlantic Treaty Regarding the Status of Their Forces" dated June 19, 1951, the Government of the United States may import into and export from Turkey the equipment for its forces and reasonable quantities of provisions, supplies and other goods exclusively for the use of the United States Forces, its members, civilian component, and dependents. United States authorities shall notify Turkish authorities of such imports and exports by manifest.

2. The importation into and permanent transfer within Turkey of major items of equipment, arms and ammunition shall be subject to the prior approval of appropriate Turkish authorities and transfer within Turkey of arms and ammunition shall be accomplished with safeguards and protections as mutually agreed. Special procedures shall be established for the customs control of arms and ammunition as well as equipment and material of a classified nature.

3. Arms and ammunition and major items of equipment needed for the operation of an installation, including such equipment as may be earmarked for replacement as a result of modernization, will not be removed from Turkey without prior notification.

4. The competent authorities of both Parties shall consult before either Party terminates its activities or reduces its capabilities significantly at the installations.

Article VI

For the purposes of this Agreement, material, equipment, provisions, supplies, services, and civilian labor required by the Government of the United States shall be procured in Turkey to the extent feasible.

Article VII

1. State-owned land areas including improvements, utilities, easements and rights of way already allocated by the Government of the Republic of Turkey for the purposes of this Agreement will continue to be made available without costs to or claims against the Government of the United States. This Article shall not be interpreted as giving the right of ownership to such land areas, improvements, utilities, easements and rights of way to the United States and is without prejudice to the terms of existing non-intergovernmental lease contracts under which certain property is provided to the Government of the United States for the purposes of this Agreement.

2. All non-removable property, including property incorporated in the soil, constructed or installed by or on behalf of the United States on the land areas allocated by the Government of the Republic of Turkey for the purposes of this Agreement, shall, from the date of its construction or installation, become the property of the Government of the Republic of Turkey, and shall be so registered without prejudice to the authorization by the Turkish authorities to the Government of the United States and its personnel to use such property for the purposes of this Agreement. Upon final termination of the use by the Government of the United States of any such non-removeable property, the right of such use will be transferred to the Government of the Republic of Turkey which will compensate the Government of the United States for the residual value, if any, of the property as determined by mutual agreement, taking into account past practices. Such property shall include those basic utility systems and other fixtures which have been permanently installed in or affixed to the property.

3. The Government of the Republic of Turkey shall have the right of priority to acquire, in accordance with mutually agreed terms, any equipment, materials, and supplies imported into or procured in Turkey by or on behalf of the Government of the United States for the purposes of this Agreement, in the event such equipment, materials and supplies are to be disposed of by the Government of the United States.

4. Construction of new buildings and other property incorporated into the soil at the installations and demolition, removal, alteration and modernization which change the basic structure of existing buildings shall be subject to prior approval by the appropriate Turkish authorities.

Article VIII

1. The costs of operations and maintenance of the installations, except for the premises exclusively utilized for Turkish operations or by Turkish personnel, and the costs of mutually agreed construction, modernization, alterations and repairs at the installations shall be met by the Government of the United States.

2. Each party shall pay its own personnel costs.

3. The costs of extention of local utilities requested by the United States and provided by the Government of the Republic of Turkey to the perimeter of the installations shall be met by the Government of the United States.

Article IX

1. The deployment into or from Turkey and operations of rotational squadron aircraft of the United States authorized to be stationed at Incirlik installation in support of NATO defense plans, their related sup-

port units, and aircraft which support activities authorized by Article I, Paragraphs 1 and 2, of this Agreement, shall be carried out in accordance with implementing agreements. These agreements shall also include:

A. Procedures for the joint use of Incirlik installation and for the provision of air traffic control services; and

B. Procedures for training of rotational squadron aircraft at Incirlik.

2. Procedures for additional training in support of NATO defense plans will be established. Implementation of this training will be accomplished through separate protocols.

3. Aircraft operating in support of these activities shall have access to designated military and civilian airfields serving such activities. Supply vessels operating in connection with these activities shall have access to Turkish seaports to be authorized by the Government of the Republic of Turkey.

4. Provisions, consistent with this Agreement, will be established to facilitate movement of United States aircraft between installations and to and from Turkey.

Article X

The provisions of the Montreux Convention are reserved.

Article XI

The installations specified in Article I, Paragraph 1 above are subject to inspection by the appropriate Turkish authorities. The inspections in question shall be on the basis of mutually satisfactory administrative arrangements between the competent authorities of the Parties.

Article XII

Nothing in this agreement shall be in derogation of the inherent right of the Government of the Republic of Turkey under international law to take all appropriate restrictive measures required to safeguard its national existence in case of emergency situations.

Article XIII

1. This Supplementary Agreement shall be valid for a period of five years from the date of its entry into force. Unless one of the Parties notifies the other Party of the termination of this Agreement three months in advance of the end of this initial five year period, it will continue to be in effect from year to year until terminated by agreement of the Parties or by either Party upon 3 months' notice prior to the end of each subsequent year.

2. In the event of termination of this Agreement, the Government of the United States shall complete the process of its withdrawal and liquidation within one year after the effective date of termination. T
Agreement shall be considered to remain
force for the purpose of such withdra
and liquidation.

Article IX

Done at Ankara in duplicate, in the E
lish and Turkish languages, each of whi
shall be equally authentic, on this 29th d
of March 1980

For the Government of the United Stat
of America.

James W. Spain,
Ambassador of the United States o
America.

For the Government of the Republic
Turkey.

Hayrettin Erkmen,
Minister of Foreign Affairs.

T-214 Israel Memorandum of Understanding.

Memorandum of Understanding Betwe
the Government of Israel and the Gover
ment of the United States of Ameri
Concerning the Principles Governi
Mutual Cooperation in Research and D
velopment, Scientist and Engineer E
change, Procurement and Logistic Su
port of Defense Equipment

Preamble

The Government of the United States
America and the Government of Isra
hereinafter referred to as the Governmen

• Noting their previous agreements on
Data Exchange (signed on 22 Decemb
1970), (2) the Production in Israel of US D
signed Defense Equipment (signed on 1 N
vember 1971), and (3) Principles Governi
Mutual Cooperation in Research and Dev
opment, Scientist and Engineer Exchan
and Procurement and Logistics Support
Selected Defense Equipment (signed on
March 1979, and amended 19 March 198
which is hereby superseded, and (4) Gener
Security of Information (signed on 10 D
cember 1982) and its Industrial Securi
Annex (signed on 3 March 1983).

• Intending to increase their respecti
defense capabilities through more efficie
cooperation in the field of research and d
velopment, production, procurement and l
gistic support in order to:

—Promote the cost-effective and ration
use of funds allocated to defense to t
extent permitted by their national la
and policies, and

—Mutually benefit from selected resear
and development programs which satis
each nation's defense needs in a cost eff
tive manner, and

• Noting that the Governments will co
tinue to purchase large quantities of d

fense equipment on a competitive basis from each other, the Governments agree to allow each other's sources to compete on defense requirements and have entered into this Memorandum of Understanding and its Annexes which are incorporated herein, in order to achieve the above aims.

This Memorandum of Understanding (MOU) and its Annexes set out the guiding principles governing mutual cooperation in research and development, procurement and logistic support of conventional defense supplies and services.

Article I.—Principles Governing Reciprocal Defense Cooperation

1. The Governments intend to facilitate the accomplishment of the above-stated aims through operational and technical exchange leading toward understanding of military requirements and their technological solutions, through cooperation in the research and development areas, and data exchange and scientist-engineer exchange program, as covered in Annexes hereto; and by allowing each other's national sources to offer conventional defense supplies and services in accordance with this MOU.

2. Consistent with national laws & regulations, each Government will accord the following treatment to offers of conventional defense supplies to be produced, and services to be performed in the other country:

a. These offers will be evaluated without applying price differentials resulting from Buy National laws and regulations, including the Balance of Payments Program.

b. These offers will be evaluated without consideration of the cost of duties and provisions will be made for duty-free entry certificates and related documentation.

c. Except as provided below, full consideration will be given to qualified industrial or governmental sources of the other country for conventional defense supplies and services consistent with the policies and criteria of the cognizant purchasing agencies, if such offers satisfy all requirements of the purchasing organization for performance, including requirements related to quality, delivery and cost. The US will not consider procurement from Israeli sources if the procurements are: (1) restricted by US disclosure policies or US industrial security requirements, (2) set aside for small business, (3) reserved for mobilization base suppliers, (4) otherwise restricted by law or regulation. In addition, the U.S. may restrict the geographic region in which contracts for the maintenance, repair, or overhaul of equipment that are part of the DoD Overseas Workload Program may be performed if appropriately designated officials of the Department of Defense determine that performance of the contract outside that specific region:

(a) Could adversely affect the military preparedness of the Armed Forces of the U.S.; or

(b) Would violate the terms of an international agreement to which the U.S. is a party.

d. Each Government's laws and regulations relating to purchases of goods and services (including the requirements for obtaining competition for such purchases) shall be applicable to purchases by each Government, respectively, in the implementation of this agreement.

e. Whenever permitted by law, waivers of further restrictive requirements are encouraged to facilitate the participation of sources in one country in the procurements of the other country.

3. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate the achievement of improved defense cooperation. Each Government will also be responsible for calling to the attention of the relevant industries within its country the existence of this Memorandum of Understanding together with appropriate implementing guidance.

4. Technical information, including Technical Data Packages (TDPs), furnished to the Government, to firms, or to persons in the other country for the purpose of offering or bidding on, or performing a defense contract shall not be used for any other purpose without the prior agreement of the originating government as well as the prior agreement of those owning or controlling proprietary rights in such technical information. Each Government will ensure that full protection will be given by its officers, agents, and firms to such proprietary information, or to any privileged, protected or classsified data and information they contain. Each Government will also undertake its best efforts to ensure compliance with the foregoing provisions on the part of other firms, or persons in its country. In no event shall such technical information or TDPs or products derived therefrom be transferred to any third country or other third party transferee without the prior written consent of the originating Government.

5. Both Governments will undertake their best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries, when required. Both Governments will also facilitate the necessary export licenses required for the submission of bids or proposals or otherwise required for the performance of this MOU and its Annexes.

6. The transfer to third countries of material or technical information and of articles derived therefrom generated from the

mutual cooperative programs included in this MOU or purchased pursuant to this MOU is subject to case-by-case advance agreement of the originating Government.

7. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II.—Implementing Procedures

Implementing guidance is included in Annex I. A joint US DoD-Israel MOD committee shall be established to update the annexes as appropriate and periodically review the progress of implementation. The Under Secretary of Defense for Acquisition, in coordination with the Assistant Secretary of Defense for International Security Affairs, and other appropriate Department of Defense and State officials, will be responsible in the US Government for the implementation of this MOU. The Director General, Israel Ministry of Defense will be the responsible counterpart authority for the Government of Israel. Other duties to be assigned this committee and the frequency of their meetings shall be further defined in Annex I.

Article III.—Security.

To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this MOU are classified by either Government for security purposes, the General Security of Information Agreement, dated 10 December 1982, between the Governments and that Agreement's Industrial Security Annex, dated 3 March 1983, shall apply.

Article IV.—Duration

1. This MOU will remain in effect for a ten year period following its signing and will be extended for successive five-year periods, if at the end of each interval the Governments mutually agree to such an extension.

2. If, however, either government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contr entered into consistent with the terms this MOU shall continue in effect, unl the contract is terminated in accordar with its own terms. Moreover, Article I, S tions 4 and 6 and Article III of this M(will continue in full force and effect aft and notwithstanding, the expiration or t mination of this MOU.

3. In any event, this MOU may be amen ed at any time upon the written agreeme of the parties.

Article V.—Annexes

The following annexes are an integr part of this MOU:

I. Principles Governing Implementation
II. Research and Development
III. The Mutual Acceptance of Test & Eva uation for the Reciprocal Procurement o Defense Equipment.

Further annexes to this MOU may be ne gotiated by the responsible officers and ap proved by the appropriate authorities o each Government and will be treated as a integral part hereof.

For the Government of Israel, the Ministe of Defense

Date: Dec. 14, 1987.

For the United States, the Secretary of Defense

December 14, 1987.

ANNEX I.—Principles Governing Implementation to Memorandum of Understanding Between the Government of Israel and the Government of the United States of America Concerning the Principles Governing Mutual Cooperation in Research and Development, Scientist and Engineer Exchange, and Procurement and Logistic Support of Defense Equipment

I. Terms of Reference

1. A joint US Department of Defense-Israel Ministry of Defense Committee (hereafter to be called "the Committee") is hereby established to serve, under the direct responsibility of the authorities listed in Article II of the Memorandum of Understanding (MOU), as the main body responsible for implementation of the MOU.

2. In particular, the Committee will be responsible for implementing the MOU and its Annexes, which govern mutually beneficial cooperation in conventional defense equipment research and development, procurement and logistic support of conventional defense equipment; to this end the Committee will meet as required pursuant to the request of either Government, but not less than once every year, alternating in

each country, to review progress in implementing the MOU. To the extent practical, the agenda for the Committee Meeting and issues to be discussed will be mutually agreed to at least 30 days in advance of the meeting. In this review:

A. They will discuss mutually beneficial cooperation in areas covered by the MOU.

B. They will exchange information as to the way the stipulations of the MOU have been carried out, and, if need be, prepare proposals for amendments of the MOU and its Annexes.

C. They will provide an annual financial statement of the current status of procurement under the MOU, give guidance for its yearly preparation, and report on the progress of MOU implementation.

D. They will consider problems which impeded the implementation of this MOU in accordance with the procedures in paragraph 3 and 4 below.

E. They will meet from time to time with representatives of the industries of each country to foster the objectives of the MOU.

3. The Committee will act as a forum for the consideration of all problems arising in the operation of the MOU, including issues relating to amending and interpreting its Annexes, and make recommendations to the parties for the resolution of such problems. In this context the Committee will:

-Establish procedures for raising and resolving problems involving the implementation of the MOU that are brought to its attention.

-If the Committee is unable to reach a consensus, refer the matter to the Under Secretary of Defense for Acquisition, in the event the United States is the procuring party, or to the Director General, Ministry of Defense, in the event Israel is the procuring party, in which case, the decision of the Under Secretary or the Director General shall be final.

4. The Committee shall not constitute the exclusive forum for the resolution of problems arising in the operation of the MOU; any aggrieved person may pursue whatever legal or administrative remedies are available to it in either country.

II. Principles

1. Major Principles.

A. The US Department of Defense (DoD) and the Ministry of Defense of Israel (MOD) will consider for their defense requirements qualified conventional defense supplies and services developed or produced in the other country.

B. In reviewing an item for possible eligibility for full and open competition, the DoD and MOD will consider for their respective procurements the following:

1. *Releasability of technology.* The technology may be released by making available to Israeli or US Industry a government owned Technical Data Package which is provided with an IFB or RFP. The release of technology may also take place through an export license application processed by a US or Israeli prime contractor for technology to be used by an Israeli or U.S. subcontractor. Technology transfer approval will be in accordance with established procedures and guidelines of each nation.

2. *Set-Asides.* Items that are set aside for Small or Disadvantaged Business or Labor Surplus Areas participation shall be excluded.

3. *Mobilization Base.* The minimum production rate that will insure that facilities, producers, manufacturers or other suppliers are available for furnishing supplies or services in case of national emergency or to achieve mobilization shall be excluded.

4. *Items Restricted by Law or Regulation.*

5. *Military Preparedness.* In accordance with Article I of the MOU, appropriately designated officials may restrict the performance of certain contracts to a specified geographic region. The office of the Secretary of Defense will designate the officials authorized to make this determination within 90 days after signing of the MOU.

C. In all instances, when a government intends to procure an item for which non-domestic sources may not compete, the procuring Government shall state in its solicitation that the procurement is limited to domestic sources only.

D. It is the responsibility of government owned entities or industry representatives in each country to acquire information concerning the other country's proposed research, development, and purchases for items or services for which its firms are eligible to compete in accordance with procurement procedures and applicable law. However, the responsible government agencies in each country will assist sources in the other country, to obtain information concerning intended research and development, proposed purchases, and necessary qualifications and appropriate documentation, as provided by law and regulations.

2. Action.

DoD and MOD will review and, where considered necessary and to the extent provided by law, revise their respective policies, procedures, and regulations and develop implementation procedures to ensure that the principles and objectives of the MOU, which are intended to promote the cost effective and rational use of funds allocated to defense, are taken into account. DoD and MOD agree that the following measures shall be taken, recognizing that, among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process are considerations that may preclude full and open competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MOU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MOU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

D. Ensure wide dissemination of the basic understanding of this MOU to their respective industries producing or developing approved defense items or services.

E. Ensure that, consistent with national laws, regulations, and this MOU, offers of conventional defense supplies produced and services performed in the other country will be evaluated without applying to such offers either price differentials under buy national laws and regulations or the cost of import duties, to the extent that existing laws and regulations permit the waiver of such import duties. Full consideration will be given to qualified industrial or governmental sources in each other's country. Provisions will be made for duty-free entry certificates and related documentation to the extent that existing laws and regulations permit.

F. Assist industries in their respective countries to identify and advise the other government of their production capabilities and assist such industries in carrying out the supporting actions for industrial participation.

G. Identify requirements and proposed purchases to the other country in a timely fashion to ensure that the industries of such country are afforded adequate time to be able to participate in the research, development, production and procurement processes.

H. The DoD will publish in a publicly available publication a summary of the notice of proposed purchases. Similarly, the MOD will submit to a designated point of contact at the U.S. Embassy, in Tel Aviv, a summary of the proposed purchases, at least 30 days prior to the issuance of the solicitation. In both cases, at least the following information will be given:

1. Subject matter of the contracts;

2. Time limits set for the submission of offers or application for solicitation; and

3. Addresses from which solicitation documents and related data may be requested.

I. Provide, on request, copies of solicitations for proposed purchases. A solicitation shall constitute an invitation to participate in the competition, and shall contain the following information:

1. the nature and quantity of the products to be supplied,

2. whether the procedure is by sealed bids or negotiation;

3. any delivery date;

4. the address and final date for submitting offers as well as the language or languages in which they must be submitted;

5. the address of the agency awarding the contract and providing any information required by the suppliers;

6. any economic and technical requirements, financial guarantees and information required from suppliers;

7. the amount and terms of payment of any sum payable for solicitation documentation.

J. Publish conditions for participation in procurements in adequate time to enable interested suppliers to initiate and, to the extent that it is compatible with efficient operation of the procurement process, complete the bidding process.

K. Provide upon request by any supplier, pertinent information concerning the reason why that supplier's application to qualify for the suppliers' list was rejected, or why that supplier was not invited or admitted to tender.

L. Establish a contact point to provide additional information to any unsuccessful offeror dissatisfied with the explanation or rejection of this offer or who may have further questions about the award of the contract.

M. Provide upon request by an unsuccessful tenderer, pertinent information concerning the reasons why the offeror was not selected, including information on the characteristics and the relative advantages of the offer tender selected, as well as the name of the winning offeror.

N. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes.

III. Membership and Points of Contact

The Governments will appoint the members of this committee and points of contact under separate cover and will update these appointments as necessary.

For the Government of Israel

Date: Dec. 14, 1987.

For the Government of the United States of America

Date: Dec. 14, 1987.

PART 3—DEFENSE COOPERATING COUNTRY AGREEMENTS AND ANNEXES

T-300 Scope of Part. This part provides, for information purposes only, copies of Defense Cooperation Country Agreements, Memoranda of Understanding, and accompanying annexes.

T-301 [Reserved]

T-302 EGYPT MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding Between the Government of Egypt and the Government of the United States of America Concerning the Principles Governing Scientist and Engineer Exchange and Mutual Cooperation in Research and Development, Procurement and Logistic Support of Defense Equipment

Preamble

The Government of the United States of America and the Government of Egypt, hereinafter referred to as the Governments:

• Noting their previous agreements on (1) the Production in Egypt of US Designed Defense Equipment (signed on 21 October 1979), (2) Scientist and Engineer Exchange Agreement (signed on 11 April 1980), (3) General Security of Information (signed on 10 February 1982) and (4) Exchange of Weapons Development Data (signed on 9 February 1984).

• Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production, procurement and logistic support in order to:

—Promote the cost-effective and rational use of funds allocated to defense to the extent permitted by their national laws and policies, and

—Mutually benefit from selected research and development programs which satisfy each nation's defense needs in a cost effective manner, and

• Noting that Egypt will continue to pur- hase large quantities of defense equipment om the United States and desiring to ame- orate the ensuing imbalance in defense ade between the two countries by allowing gyptian sources to compete for procure- ents of the US Department of Defense oD), have entered into this Memorandum Understanding (MOU) in order to achieve e above aims.

This Memorandum of Understanding OU) sets out the guiding principles gov- ing mutual cooperation in research and elopment, procurement and logistic sup- t of conventional defense supplies and vices.

Article I—Principles Governing Reciprocal Defense Cooperation

1. The Governments intend to facilitate the accomplishment of the above-stated aims through operational and technical exchange leading toward understanding of military requirements and their technological solutions, through cooperation in the research and development areas, and data exchange and scientist-engineer exchange programs, as covered in Annexes hereto; and by allowing each other's national sources to offer conventional defense supplies and services in accordance with this MOU.

2. Consistent with national laws and regulations each Government will accord the following treatment to offers of conventional defense supplies and services from sources of the other country:

a. Offers will be evaluated without applying price differentials resulting from Buy National laws and regulations, including the Balance of Payment program.

b. Offers will be evaluated without consideration of the cost of duties, and provisions will be made for duty-free entry certificates and related documentation.

c. Except as provided below, full consideration will be given to qualified industrial or governmental sources of the other country for conventional defense supplies and services consistent with the policies and criteria of the cognizant purchasing agencies, if such offers satisfy all requirements of the purchasing organization for performance, including requirements related to quality, delivery and cost. The US will not consider procurement from Egyptian sources if the procurements are: (1) Restricted by US disclosure policies or US industrial security requirements, (2) set aside for small business, (3) reserved for mobilization base suppliers, (4) otherwise restricted by law or regulation. In addition, the US may restrict the geographic region in which contracts for the maintenance, repair or overhaul of equipment, that are part of the DoD overseas workload program may be performed if appropriately designated officials of the Department of Defense determine that performance of the contract outside that specific region:

(a) Could adversely affect the military preparedness of the Armed Forces of the US; or

(b) Would violate the terms of an international agreement to which the US is a party.

d. Each Government's laws and regulations relating to purchases of property and services (including the requirements for obtaining competition for such purchases) shall be applicable to purchases by each Government, respectively, in the implementation of this agreement.

e. Whenever permitted by law, waivers of further restrictive requirements are encouraged to facilitate the participation of sources in one coutnry in the procurements of the other country.

3. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate achievement of improved defense cooperation. Each Government will also be responsible for calling to the attention of the relevant industries within its country the existence of this Memorandum of Understanding together with appropriate implementing guidance.

4. Technical information, including Technical Data Packages (TDPs), furnished to the Government, to firms, or to persons in the other country for the purpose of offering or bidding on, or performing a defense contract shall not be used for any other purpose without the prior agreement of the originating Government as well as the prior agreement of those owning or controlling proprietary rights in such technical information. Each Government will ensure that full protection will be given by its officers, agents, and firms to such proprietary information, or to any privileged, protected or classified data and information it contains. Each Government will also undertake its best efforts to ensure compliance with the foregoing provisions on the part of other firms, or persons, in its country. In no event shall such technical information or TDPs or products derived therefrom be transferred to any third country or other third party transferee without the prior written consent of the originating Government.

5. Both Governments will undertake their best efforts to assist in negotiating licenses, royalties, and technical information exchanges with their respective industries, when required. Both Governments will also facilitate the necessary export licenses required for the submission of bids or proposals or otherwise required for the performance of this MOU and its Annexes.

6. The transfer to third countries of material or technical information and of articles derived therefrom generated from the mutual cooperative programs included in this MOU is subject to case-by-case advance agreement of the originating Government.

7. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II—Implementing Procedures

Implementing guidance is included in Annex I. A joint US DoD-Egypt MOD Steering Committee for Armaments Cooperation shall be established to update the annexes as appropriate and periodically review the progress of implementation. The Under Secretary of Defense for Acquisition, in coordination with the Assistant Secretary of Defense for International Security Affairs, and other appropriate Department of Defense and State officials, will be responsible in the US Government for the implementation of this MOU. The Director General, Egyptian Ministry of Defense, will be the responsible counterpart authority for the Government of Egypt. Other duties to be assigned this committee and the frequency of their meetings shall be further defined in Annex I.

Article III—Security

To the extent that any items, plans, specifications or information furnished in connection with specific implementation of this MOU are classified by either Government for security purposes, the General Security of Information Agreement, dated 10 February 1982, between the Governments shall apply.

Article IV—Duration

1. This MOU will remain in effect for a ten-year period following its signing and will be extended for successive five-year periods, if at the end of each five-year interval the Governments mutually agree to such an extension.

2. If, however, either government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into pursuant to the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms. Moreover, Article I, Sections 4 and 6 and Article III of this MOU will continue in full force and effect after, and notwithstanding, the expiration or termination of this MOU.

3. In any event, this MOU may be amended at any time upon the agreement of the parties.

Article V—Annexes

The following annex is an integral part of this MOU:

I. Principles Governing Implementation

Further annexes to this MOU (such as Research & Development Annex) may be negotiated by the responsible officers and approved by the appropriate authorities of each Govenrment and will be treated as an integral part thereof.

For the Government of Egypt

The Minister of Defense

Abu Ghazala
Date, March 23, 1988.

For the United States

The Secretary of Defense

Frank C. Carlucci
March 23, 1988.

Annex I—*Principles Governing Implementation to Memorandum of Understanding Between the Government of Egypt and the Government of the United States of America Concerning the Principles Governing Scientist and Engineer Exchange Mutual Cooperation in Research and Development, Procurement and Logistic Support of Selected Defense Equipment*

I. Terms of Reference

1. A joint US Department of Defense-Egypt Ministry of Defense Steering Committee for Armaments Cooperation (hereafter to be called "the Committee") is hereby established to serve, under the direct responsibility of the authorities listed in Article II of the Memorandum of Understanding (MOU), as the main body responsible for implementation of the MOU.

2. In particular, the Committee will be responsible for implementing the MOU and its Annexes, which govern mutually beneficial cooperation in conventional defense equipment research and development, procurement and logistic support of conventional defense equipment; to this end the Committee will meet as required pursuant to the request of either Government, but not less than once every year, alternating in each country, to review progress in implementing the MOU. To the extent practical, the agenda for the Committee Meeting and issues to be discussed will be mutually agreed to at least 30 days in advance of the meeting. In this review:

A. They will discuss mutually beneficial cooperation in areas covered by the MOU.

B. They will exchange information as to the way the stipulations of the MOU have been carried out, and, if need be, prepare proposals for amendments of the MOU and/or its Annexes.

C. They will provide an annual financial statement of the current status of procurement under the MOU, give guidance for its yearly preparation, and report on the progress of MOU implementation.

D. They will consider problems which impeded the implementation of this MOU in accordance with the procedures in paragraphs 3 and 4 below.

E. They will meet from time to time with representatives of the industries of each country to foster the objectives of the MOU.

3. The Committee will act as a forum for the consideration of all problems arising in the operation of the MOU, including issues relating to amending and interpreting its Annexes, and make recommendations to the parties for the resolution of such problems. In this context the Committee will:

—Establish procedures for raising and resolving problems involving the implementation of the MOU that are brought to its attention.

—If the Committee is unable to reach a consensus, refer the matter to the Under Secretary of Defense for Acquisition, in the event the United States is the procuring party, or to the Director General, Ministry of Defense, in the event Egypt is the procuring party, in which case the decision of the Under Secretary or the Director General shall be final.

4. The Committee shall not constitute the exclusive forum for the resolution of problems arising in the operation of the MOU; any aggrieved person may pursue whatever legal or administrative remedies are available in either country.

II. Principles Governing Implementation

1. Major Principles

A. The US Department of Defense (DoD) and the Ministry of Defense of Egypt (MOD) will consider for their defense requirements qualified conventional defense supplies and services developed or produced in the other country.

B. In reviewing an item for possible eligibility for full and open competition, the DoD/MOD will consider for their respective procurements the following:

1. *Releasability of Technology.* The technology may be released by making available to Egyptian or US industry a government owned Technical Data Package which is provided with an IFB or RFP. The release of technology may also take place through an export license application processed by a US or Egyptian prime contractor for technology to be used by an Egyptian or US contractor. Technology transfer approval will be in accordance with established procedures and guidelines of each nation.

2. *Set-Asides.* Items that are set aside for Small or Disadvantaged Business or Labor Surplus Areas participation shall be excluded.

3. *Mobilization Base.* The minimum production rate that will ensure that facilities, producers, manufacturers or other suppliers are available for furnishing supplies or services in case of national emergency or to achieve mobilization shall be excluded.

4. *Items Restricted by Law or Regulation.*

5. *Military Readiness.* In order to establish or maintain a repair, maintenance or support capability necessary to ensure military readiness in designated geographical areas, the Governments may restrict certain procurements.

C. In all instances, when a government intends to procure an item for which non-domestic sources may not compete, the procuring Government shall state in its solicitation that the procurement is limited to domestic sources only.

D. It is the responsibility of government owned entities or industry representatives in each country to acquire information concerning the other country's proposed research, development, and purchases for items or services for which its firms are eligible to compete in accordance with procurement procedures and applicable law. However, the responsible government agencies in each country will assist sources in the other country, to the degree possible, to obtain information concerning intended research and development, proposed purchases, and necessary qualifications and appropriate documentation, as provided by law and regulations.

2. *Action*

DoD and MOD will review and, where considered necessary and to the extent provided by law, revise their respective policies, procedures, and regulations and develop implementation procedures to ensure that the principles and objectives of the MOU, which are intended to promote the cost effective and rational use of funds allocated to defense, are taken into account. DoD and MOD agree that the following measures shall be taken, recognizing that, among other factors, delivery date requirements for supplies, the interest of security and the timely conduct of the procurement process are considerations that may preclude free and full competition for the award of contracts:

A. Ensure that their respective requirements offices are familiar with the principles and objectives of this MOU.

B. Ensure that their respective research and development offices and institutes are familiar with the principles and objectives of this MOU.

C. Ensure that their respective procurement offices are familiar with the principles and objectives of this MOU.

D. Ensure wide dissemination of the b understanding of this MOU to their resp tive industries producing or developing proved defense items or services.

E. Ensure that, consistent with natio laws, regulations, and this MOU, offers conventional defense supplies produced services performed in the other country be evaluated without applying to su offers either price differentials under b national laws and regulations or the cost import duties, to the extent that existi laws and regulations permit the waiver such import duties. Full consideration be given to qualified industrial or gover mental sources in each other's country. P visions will be made for duty-free entry c tificates and related documentation to t extent that existing laws and regulatio permit.

F. Assist industries in their respect countries to identify and advise the oth Government of their production capabilit and assist such industries in carrying the supporting actions for industrial parti pation.

G. Identify requirements and propos purchases to the other country in a tim fashion to ensure that the industries such country are afforded adequate time have an opportunity to participate in the search, development, production and p curement processes.

H. Publish in a publicly available publi tion a summary of the notice of propos purchase containing at least the following

1. Subject matter of the contract;

2. Time-limits set for the submission offers or an application for solicitation;

3. Addresses from which solicitation do ments and related data may be requested.

I. Provide on request copies of solici tions for proposed purchases. A solicitat shall constitute an invitation to particip in the competition, and shall contain following information:

1. The nature and quantity of the pr ucts to be supplied;

2. Whether the procedure is by sealed b or negotiation;

3. Any delivery date;

4. The address and final date for subm ting offers as well as the language or l guages in which they must be submitted;

5. The address of the agency awarding contract and providing any information quired from suppliers;

6. Any economic and technical requi ments, financial guarantees and informat required from suppliers;

7. The amount and terms of payment any sum payable for solicitation documen tion.

J. Publish conditions for participation procurements in adequate time to enable terested suppliers to initiate and, to extent that it is compatible with efficient operation of the procurement process, complete the bidding process.

K. Provide, upon request by any supplier, pertinent information concerning the reason why that supplier's application to qualify for the suppliers' list was rejected, or why that supplier was not invited or admitted to tender.

L. Establish a contact point to provide additional information to any unsuccessful offeror dissatisfied with the explanation for rejection of his offer or who may have further questions about the award of the contract.

M. Provide, upon request by an unsuccessful tenderer, pertinent information concerning the reasons why the offeror was not selected including information on the characteristics and the relative advantages of the offer tender selected, as well as the name of the winning offeror.

N. Use best efforts to assist in negotiating licenses, royalties, and technical information exchanges among their respective industries, and research and development institutes when appropriate.

III. Membership and Points of Contact

A. Membership

The Governments will appoint the members of this committee and points of contact under separate cover and will update these appointments as necessary.

For the Government of Egypt

A. El Tawil,
Major General.
Date: March 23, 1988.
Abadel-Moneim El-Tawil,
Deputy Chief Armament Authority.

For the Government of the United States of America

Robert B. Costello,.
Under Secretary of Defense (Acquisition).
March 23, 1988

Part 4—Other Memoranda of Understanding

T-400 [Reserved]

T-401 Sweden Memorandum of Understanding.

Memorandum for Assistant Secretary of the Army (Research, Development & Acquisition); Assistant Secretary of the Navy (Shipbuilding & Logistics); Assistant Secretary of the Air Force (Acquisition); Director, Defense Logistics Agency

Subject: Memorandum of Understanding with Sweden on Defense Procurement

A Memorandum of Understanding on mutual cooperation in defense procurement has been signed by Secretary of Defense Weinberger and Swedish Defense Minister Carlsson. It became effective on June 16, 1987. A copy is provided herewith for your guidance pending implementation in the DoD FAR Supplement. In accordance with paragraph 4 of Article I, the offer of a Swedish product should be evaluated as if it were a participating country offer in accordance with DFARS 25.7403(a)(3). If, after such evaluation, the Swedish offer is otherwise eligible for award, the contracting officer shall request the appropriate waiver of the Buy American Act for the acquisition. In most cases the appropriate waiver would be a determination that the acquisition of a domestic product would be inconsistent with the public interest. The authority to make determinations that the acquisition of a domestic product would be inconsistent with the public interest is delegated in DFARS 25.102(70)(2). This Section was revised on July 29, 1987, by the DARS Council for immediate implementation. The revision delegated authority to make determinations as indicated in DFARS 25.102(71).

Eleanor R. Spector,
Deputy Assistant Secretary of Defense for Procurement.

Memorandum of Understanding Between the Government of the United States of America and the Government of the Kingdom of Sweden Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area

Preamble

The Government of the United States of America and the Government of the Kingdom of Sweden, hereinafter referred to as the Governments:

- Bearing in mind the traditional policy of neutrality on the part of Sweden and the membership of the United States in the North Atlantic Treaty Organization and
- Having regard to the friendly relations existing between them and in order to:

—Assure a long-term and equitable balance in reciprocal purchasing of commodities and services for defense purpose items; and
—Make the most cost-effective and rational use of the funds allocated to defense; and
—Remove barriers to reciprocal defense trade to the extent mutually beneficial to include government-imposed offset requirements; and
—Promote the exchange of defense technology to the extent consistent with their respective national policies.

- Have entered into this Memorandum of Understanding (MOU).

This MOU sets out the guiding principles governing mutual cooperation in defense procurement.

Article I.—Principles Governing Cooperation

1. Both Governments intend to achieve and maintain a long-term, equitable balance in their exchanges of defense equipment, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies.

2. The two Governments will, consistent with the laws, regulations, and practices having the force of law of each Government, give favorable consideration to all requests for cooperation in defense equipment research and development, production, procurement, and logistical support.

3. Both Governments will provide appropriate policy guidance and administrative procedures with their respective defense procurement organizations to facilitate achievement of the aims of this MOU.

4. Barriers to procurement or coproduction at the prime and subcontract levels of an item of defense equipment that has been produced in the other country shall be removed, insofar as laws and regulations permit. When a firm of the other party submits a bid or offer which could be the low responsive and responsible offer but for the application of any buy-national requirements, both parties agree to process waiver requests of any buy-national requirement or restrictive procurement regulations insofar as national laws and regulations permit.

5. Customs duties shall be waived to the extent authorized by law.

6. Competitive contracting procedures as required by law or regulation shall be used in acquiring defense equipment.

7. Favorable consideration will be given to all qualified industrial and Government sources in each other's country consistent with the national procurement policy and criteria. It is therefore understood that items offered shall satisfy requirements for performance, quality, delivery, and cost. Both Governments will use their best efforts to facilitate the qualification for eligibility.

8. Each Government will provide information regarding requirements and proposed purchases in a timely fashion to ensure adequate time for industries of the other country to qualify for eligibility and submit a bid or proposal.

9. Each Government will ensure that the technical data packages (TDPs) made available under this MOU are not used for any purpose other than for the purpose of bidding on and performing a prospective defense contract without the prior agreement with those owning or controlling proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDPs be transferred to any third country or any other transferee without the prior written consent of the originating Government.

10. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

Article II.—Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU. Terms of reference will be proposed for a Swedish-American Committee for Reciprocal Procurement, including rules governing its work. The implementing procedures under this MOU shall be an integral part thereof.

2. The Under Secretary of Defense for Acquisition, in coordination with the appropriate Department of Defense officials, will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Assistant Under Secretary of Defense for Procurement in the Ministry of Defense will be the responsible authority of the Government of Sweden for any matter relating to the procedures for implementing this MOU.

Article III.—Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its country the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industrial participants of each country.

Article IV.—Security

Any classified information furnished by either Government in connection with the implementation of this MOU shall be protected by the receiving Government in compliance with the U.S.-Sweden General Security of Military Information Agreement of 23 December 1981, and the Security Procedures for Industrial Operations between the Supreme Commander of the Swedish Armed Forces and the Department of Defense of the United States (Security Protocol), effective 16 February 1982.

Article V.—Duration

1. This agreement will remain in effect for 10 years following its signing, unless otherwise agreed by both Governments. It will be automatically extended for further 10-year periods, unless 6 months' advance notice of termination is given by either Government concerned.

2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this MOU before the end of the 10-year period, written notification of its intention will be given to the other Government 6 months in advance of the effective date of discontinuance. Such notification of intent would be a matter of immediate consultation with the other Government to enable he Governments to evaluate fully the consequences of such termination and, in the pirit of cooperation, to take such actions as necessary to alleviate problems that may esult from the termination. In this connection, although the MOU may be terminated y the parties, any contract entered into onsistent with the terms of this agreement hall continue in effect, unless the contract s terminated in accordance with its own erms.

Article VI.—Administration

1. Each Government will designate points f contact at the Ministry of Defense level nd in each purchasing service or agency.

2. Government representatives will meet s agreed or at the request of either Govmment to review progress in implementing he MOU. They will discuss development, roduction, and procurement needs of each ountry and the likely areas of cooperation, nd will consider any other matters relevant the MOU.

Article VII.—Annexes

Annexes negotiated by the resonsible ofes and approved by the appropriate Govnment authorities will be incorporated in is MOU and made an integral part there-

Article VIII.—Implementation

. The arrangements contained in this OU represent the understanding reached tween the Government of the United ates of America and the Government of Kingdom of Sweden upon the matters erred to herein. Each Government must tually agree to any amendment of this U.

. This agreement, in two original texts in Swedish and English languages, both ts being equally authentic, will come into ect on the date of the last signature.

For the Government of the Kingdom of Sweden, The Minister of Defense

For the United States Government, The Secretary of Defense

Date: June 11, 1987.

Date: June 11 1987.

His Excellency Count Wilhelm Wachtmeister,
Ambassador of Sweden, 600 New Hampshire Avenue NW., Washington, DC 20037

Dear Mr. Ambassador: Last year, as a consequence of prior exchanges between us, I passed to you a draft Memorandum of Understanding (MOU) of Principles Governing Mutual Cooperation in the Defense Procurement Area. Since then, there has been communication between our representatives and yours, which has been appended to the MOU as a permanent part of the record. I have the honor to transmit the MOU herewith in two original copies, which I have signed. I would be grateful if you would arrange to have one of the originals signed on behalf of the Government of Sweden and returned to me.

It is my earnest desire that this agreement prove useful and to our mutual benefit in opening the way to reciprocal opportunities in defense trade.

Sincerely,

Ambassador Ulf Dinkelspiel,
Ministry of Foreign Affairs, Stockholm, Sweden

Dear Ulf: Before our two governments enter into the Memorandum of Understanding "Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area", I believe it advisable to clarify the purpose of certain language in the MOU.

First, you will note that the Preamble to the MOU states it to be our intention to "assure a long-term and equitable balance in reciprocal purchasing of defense equipment." Moreover, Article I, Paragraph 1, of the MOU also states that "Both Governments intend to achieve and maintain a long-term equitable balance in their exchanges of defense equipment. . . ."

This language is employed solely for the purpose of enabling the Department of Defense (DOD) to waive Congressionally-imposed restrictions against procurement of foreign specialty metals, in the interest of fulfilling the intent of the MOU. The prohibition in question is currently found in Section 9011 of the Continuing Resolution on Appropriations, 1987, which provides, *inter alia*, that "No part of any appropriation contained in this Act . . . shall be available for the procurement of . . . specialty metals . . ." The same section, however, contains a proviso "that nothing herein shall preclude the procurement of specialty metals . . . when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements. . . ."

The language of the MOU quoted in the second paragraph above, taken in the context of the MOU as a whole, is employed for the purpose of making it possible for DOD to waive restrictions which would otherwise hinder the implementation of the MOU. With reference to the language quoted, however, the reference to "long-term equitable balance" does not mean it to be our purpose to assure that a purchase by one must be balanced by a purchase by the other of equivalent value. Nor does it mean that the cumulative value of purchases on one side will necessarily equal the cumulative value of purchases on the other. Rather, the MOU seeks to assure that each side removes barriers to reciprocal defense trade on a fair and equitable basis. Thus no commitment on the part of the United States to establish any particular ratio in defense trade is intended.

Second, with reference to Article I, Paragraph 5, of the MOU, the provision for waiving customs duties is intended to be reciprocal.

If your understanding of these two points regarding the MOU is in agreement with mine, please inform me so our letters may be attached to the Memorandum of Understanding as an appendix.

Sincerely yours,

Richard Perle.

Stockholm, February 3, 1987.

The Honorable Richard Perle, Assistant Secretary of Defense, Department of Defense, Washington, D.C. 20301

Dear Richard: I refer to your letter of January 15, 1987 concerning our discussion on a Memorandum of Understanding "Relating to the Principles Governing Mutual Cooperation in the Defense Procurement Area".

I wish to confirm that I am in full agreement with the contents of your letter. Thus I quite agree that the reference to "long-term equity balance" in the present text of the MoU is not to be seen as an assurance that a purchase by one must be balanced by a purchase by the other of equitable value, but rather that the MoU seeks to assure that each side removes barriers to reciprocal defense trade on a fair and equitable basis. I also agree that the provision for waiving customs duties in Article I, Paragraph 5, of the MoU is intended to be reciprocal.

I share your view that our letters should be attached to the Memorandum of Understanding as an appendix.

Sincerely yours,
Ulf Dinkelspiel.

[51 FR 46526, Dec. 23, 1986, as amended at 53 FR 38177, 38205, 38249, Sept. 29, 1988; 53 FR 50417, Dec. 15, 1988; 54 FR 2258, Jan. 19, 1989]

Editorial Note: This listing is provided for information purposes only. It is compiled and kept up-to-date by Department of Defense.

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